GREEK PUBLIC POLICY IN LAND PRIVATIZATION

I. INTRODUCTION

Drastic State interventionism in the sphere of economic activity first appears and starts to expand on an international scale during the 1930s, right after the Depression and becomes a fact during the post World War II era after Keynesian economic principles become universally accepted (Anastopoulos, 1982: 14). State interventionism attempted to fight against economic crises and the consequent economic uncertainty. Added to these economic crises was the destruction that followed in the wake of two World Wars and the overwhelming need for economic restructuring and growth. Thus, it was widely believed by all, with the exception of those countries that had opted for a purely State-driven economy that the State should intervene in the economy, aiming not only at regulating, but also at actively helping to restructure the financial sector (Tsironas, 2006:22)

The specific nature of State interventionism in the economy was mainly based on the idea that certain activities of purely private initiative must, in the general interest of the whole economy, not only be supervised by the State, but also be carried out by it. It is not possible for a modern interventionist State to achieve in goals of this nature by merely regulating and guiding the economy, no matter how systematically this is done. Due to this, the creation of the public business sector became an important instrument in implementing the aforementioned goals of fiscal policy (Tsironas: 2006).

However, the constant and radical changes of the past few years in the international economic and social scene have brought to the limelight new problems afflicting national economies. The difficulties encountered when attempting to solve these financial problems were mainly attributed to State interventionism in the economy. A sweeping series of structural reforms to the State penetration in the economy was suggested as a solution. However, the overall resolution of the problems encountered in entire sectors of industry was not connected to the interventional State per se, but to a specific aspect of it, that of the State as a business entity. Thus, it became evident that there was a need to redefine the public business sector and the gradual reconfiguration of the traditional administrative structure was attempted (Thurow, 1997: 41).

It was these beliefs as well as the past and present plans to put these beliefs into effect that have had a major influence on the administrative structure of the world’s developed and developing countries. The adjustment of the State under these new conditions was based on beliefs that held that the main medium for pursuing this goal was the reduction of State business plans and the reduction of the size of State business activity. The suggested solution and the idea behind it led to the formulation of a new concept in the fields of economic and political sciences, namely, that of privatization (Tsironas, 2006).
For the past 20 to 25 years global political and economic developments have significantly affected contemporary approaches to public funds administration, which include public property. Indeed, with the worldwide trend of reducing State business plans, there has been growing awareness of the value of public property as a productive capital good and the attempt to privatize it by adopting the practices of the private sector.

The administration of public property is dependent on the growth model employed by each social organization, which, in turn, is dependent on the set of values employed by the political body governing said organization. Thus, in order to better understand the trends and selected modes of exploiting public property, the study of the prevalent trends in the science of political economy during the execution of State governance is required. Through the application of new theories in the sector of political economy, aspects of political choices of State administration come to light, which, if properly documented and evaluated, can help optimize the process of fulfilling the needs of society.

II. MODERN TRENDS IN PARAMETERS SHAPING POLITICAL EXECUTIVE POWER OPTIONS:

1. THEORIES OF PUBLIC CHOICE AND RENT SEEKING AS A REACTION TO THE THEORETICAL MODELS OF CLASSICAL POLITICAL SCIENCE:

For Puritans, the public interest is merely the sum of individuals’ wealth, happiness and avoidance of pain. “The “New Right” theory revived these principles in the late twentieth century. The dominant values to be promoted by public administrators must be frugality in the use of public resources and encouraging individuals to provide for themselves. The public interest is thus ensuring that individuals behave rationally, minimizing state interference. Individuals for their part must minimize the demands they make on the state. In consequence, public servants must be trained to adopt and implement a minimalistic philosophy of government, including strict frugality and intervening in markets and individuals’ pursuit of happiness as little as possible” (Elcock H., 2006: 103 - 105).

On both sides of the Atlantic, neo – conservatives have adopted this individualistic approach. Individuals must be set free to determine, protect and promote their own interests: Margaret Thatcher famously declared that “There is no such thing as society: only individuals and families”. From this individualistic view of the motivations of politicians and bureaucrats has followed a belief that only by adopting commercial practices will governments, ministers and public servants alike achieve the business virtues of economy, efficiency and effectiveness (Pollitt, 1990).

The result of the above mentioned view of the public interest is the appearance of theories that reject the existence of a collective interest and consequently, the ability of politicians to act for it. From these notions derive the theories of public choice and rent – seeking. Theses theories regard all
individuals, including ministers and bureaucrats, as self-interested rational maximisers, whose only motive is to further their individual self-interests in gaining votes, power and money. These theories aim at the critical examination of the factors that shape the choices taken by the political executive power, as these are defined by the traditional models of political science theoreticians. In this manner, the motives of political executive power are questioned and private initiative is highlighted as the most suitable for administering public property.

More specifically, the contemporary theorists of political science question the policy conclusions whose implementation has customarily been treated as the responsibility of a government whose own behavior lies outside the scope of analysis. The basic shortcoming of neo-classical economics lies in the fragmented definition of the decision-making environment within which individual decisions are taken (Jack Wiseman, 1990: 105 – 106).

“The most general and effective destruction of neo-classical economics comes from the development of concepts of public choice, which have evolved since the publication of The Calculus of Consent (Buchanan, J.M. and Tullock, G., 1962), along with the theory of rent seeking. The essential criticism is the restriction of the area of interest to choice – through – markets generates policy conclusions which are assumed to be implemented by a government whose characteristics lie outside the scope of the analysis. By default, that is, the instrument of policy – implementation is assumed to be omni competent and costless. Emerging from dissatisfaction with this, the fundamental contribution of public choice is the insistence upon the fact that the political process and its institutions (constitutions, governments, bureaucrats) are themselves aspects of a general choice-process and are at least in part substitutable for or complementary to the process of choice – through – markets which is the embracing concern of the neo-classical model. (Jack Wiseman, 1990: 106). This seems to constitute a clear break with the earlier tradition in that it appears to reject the possibility that any useful notions of “social efficiency” or associated recommendations for public policy can be derived from the study of choice – through – markets on the implicit assumption that the functioning of all other choice – related institutions is both costless and flawless.”

Besides, having applied micro-economic logic to politics, theorists of rent seeking (Felkins L., http://perspicuity.net/sd/pub-choice.html) have concluded that while individual interest leads to sound results where the market is concerned, where policy is concerned, it might lead to incorrect political decisions. Serving individual interest often creates different groups of voters, politicians, bureaucrats and power lobbies that strive to get the State to pass legislature favorable for them. Serving the individual interest favors public interest where the rights of the individual are concerned, but rarely where the common good is concerned.

The dogmatic constructs of the new theorists of political science further specialize when they try to derive conclusions from the choices made by the political executive power during the
administration of public property. Thus, in an attempt to empower the international trend for privatizing public property, they lay down the ideological background for this process in order to present it as the most suitable means for bolstering a flagging economy. This also justifies the special interest generated by the application of the theoretical constructs of the new political economy in the matter of administrating public property.

2. THE THEORETICAL CONSTRUCTS OF THE NEW POLITICAL ECONOMY CONCERNING THE ADMINISTRATION OF PUBLIC PROPERTY:

Based on the considerable differences in country experiences, it seems plausible that efforts to achieve efficiency gains are not the sole driving force of changes in national property arrangements. In the short run, market forces apparently do not automatically erode those inefficient property structures, which impede the most efficient use of scarce resources. This runs counter to the economic approach of institutional change, which assumes that the aim of efficiency gains is the major driving force of institutional change (Demsetz 1967, North 1981). That is why it is advisable to look more closely at the political economy of privatization. In this context, it becomes important to identify the societal forces and their respective incentives and constraints that determine the direction and the degree of changes in property rights arrangements. The political theory of institutional change interprets existing institutions as the result of interests and strategies of political decision-makers and major interest groups involved.

According to Libecap (1989), the political negotiation processes are a main element in the creation of property rights. The direction and quality of institutional change are a result of the interaction between the political programs offered by the government and the demand for public goods or transfers from various interest groups. Depending on which actors primarily influence the direction and quality of institutional change, one can further differentiate between considerations based on the public-choice theory and the rent seeking theory. Both theoretical branches are integrated here within one model, assuming that de facto privatization is determined by the interplay between demand and supply of political programs (Oppen S., 2004: 565).

Decisions regarding changes in formal institutions, such as the privatization of state-owned land, are taken at the legislative and executive level, providing politicians and bureaucrats with central decision-making and implementation power. The public choice perspective of institutional change postulates that political decision-makers do not only serve the general public and maximize societal welfare but also tend to pursue rent-seeking activities (Buchanan, James M., Tollison R., Tullock G., 1980) and serve their personal interests (Shleifer, Andrei and Vishny R., 1994: 111-132). It is in this sense that Shapiro and Willig (1990) assume that politicians maximize a utility function that represents a weighted average of social welfare and personal benefits. Personal benefits can result from patronage
and rent-seeking activities, but can also be achieved by favoring certain interest groups to maximize political support.

State-owned land serves as an important means to redistribute wealth from the common pool to state actors and their preferential subgroups, since direct control rights in enterprise decision-making at the firm offer changes for low-cost state intervention. On the one hand, the transfer of wealth through state-owned land is far less transparent than classical redistributive financial instruments such as taxes and subsidies and therefore meets with less political resistance (Jones, Leroy P. 1985: 333-348). On the other hand, the transaction costs of intervention are lowered when politicians enjoy direct rights of control in the firm (Sappington and Stiglitz 1987). Overall, divestiture of state-owned land would significantly increase the costs of political intervention and thereby reduce chances for political control and limit potential benefits for state actors and their supporters (Yarrow G. 1998: 157-168). Building on the observation that "institutions are not usually created to be socially efficient, but are created to serve the interests of those with bargaining power to create new rules" (North D., 1994: 360), one may assume that politicians have an inherent tendency to avoid out and out privatization. Recent empirical evidence suggests that politicians in transition economies are indeed reluctant to privatize (Boycko M., Shleifer A. and Vishny R., 1995) and try to remain involved in company decision-making (Hellman J. and Schankerman M., 2000). Whether and to what extent privatization programs get started despite this reluctance depends on both economic and political costs and structural determinants of the political system.

From the governments point of view, privatization is connected with two distinct types of costs: 1. A loss of political rents, 2. A loss of voters’ support. The cost calculus is dependent upon the government majority. The extent to which politicians can appropriate political rents at the expense of social welfare is determined by the amount of discretion they enjoy within the political system. The more discretionary power politicians hold in decision-making the easier they can pursue opportunistic policies and the higher the potential political rents from SOEs. Governments holding very strong majorities act rather independently and enjoy broader leeway for the discretionary use of SOEs for rent-seeking activities than governments holding only moderate or weak majorities. Privatization therefore means the largest loss of political rents for governments holding very strong majorities. This assumption is consistent with the extreme example of the one-party regime of the PR of China which though in general quite liberal and ideologically unconstrained in terms of market liberalization – has been reluctant to divest SOEs (Opper, Wong and Hu 2002). On the other hand privatization often entails a significant loss of jobs in the privatized enterprises and may thus be costly in terms of voters’ support. These costs are the highest for small government majorities as they risk being voted out of office in the next elections (Sonja Opper, 2004: 567).
The theoretical view on the best option in administrating public property find practical application in privatization programs in nations all around the world. Thus, it is of great interest for us to examine the Greek institutional framework within which political choices are made.

III. THE LEGAL AND POLITICAL JUSTIFICATION OF PRIVATIZATION ACCORDING TO THE GREEK INSTITUTIONAL FRAMEWORK:

Before the 1900s, the Greek State had never directly intervened in the financial sector. However, at the dawn of the 20th century, it started becoming involved in financial activities, in the sectors where private initiative was lacking, while outsourcing the public utilities such as transport, water supply and electricity to either Greek or foreign companies. In the post-war era until the start of the 1990s, there were periods where the public sector expanded, although at different rates each time.

In the mid-1980s, the public sector had directly or indirectly taken over every area of economic activity. During that time, the constant intervention of the State in shaping the economic reality and, by extension, accepting the practice of the State directly conducting every type of business activity were a given. Thus, even today, in Greece the public sector, as it is defined in its broadest legal sense (Article 1 of law 2000/1991), has taken over sectors of financial activity that operate with strict private sector economic criteria, sectors such as banking credit, insurance, transport, and radio and television broadcasting. At the same time, State interference also retains the regulatory features of a rather extensively administered economic system, since interventionism is strong in such sectors such as industry, tourism and trade. State interference includes virtually all the production sectors, creating conditions that are definitely oriented towards creating a fairly system of interference, without annulling the principles of a free market (Tsironas A.,:18).

It is therefore important to examine the basis on which the policy of intervening is employed by political authority, regarding the statutory framework established by the Greek Constitution. Besides, the issue concerning the constitutional boundaries imposed on administration while implementing privatization is an important tool in the research of the semantics of privatization.

A. THE BASIC CONSTITUTIONAL PRINCIPLES AND DIRECTIONS DETERMINING THE POLITICAL CHOICES DURING THE ADMINISTRATION OF PUBLIC PROPERTY:

Based on the above analysis, it is apparent that privatization is considered worldwide one of the most important tools in administering the State’s public property. However, while the ability of the government body to enter into a contract with, as well as bind the society it represents, might seem a given, in reality when privatizing public property, its choices for conventional actions in this matter must be strictly regulated by and based on the current Greek statutory framework. However, in order to
investigate how State interference fits in the context of regulating the economy, what is required is a study of the nature and character of the Greek economic status quo, in relation to the statutes of the Constitution.

The Greek Constitution includes certain principles on which the economic status quo is based. The Greek Constitution prescribes the framework within which the regulatory power of the common lawmaker can move and moreover, the executive jurisdiction of the central government (Tsironas A.: 27). The most basic elements in defining an economic establishment are the range of exercising and developing of private fiscal initiative. Pinpointing the ease and extent to which the State can intervene in financial activities is the basis for defining the economic establishment and classifying it according to traditional models. The economic provisions in the Constitution, therefore, reveal the guidelines that the legislators must not trespass.

It should be noted that from a constitutional point of view, there is an essential difference based on whether it is the State or a private citizen that enters into a contract. When citizens enter into a contract, they are making use of their contractual freedom, which in effect means that they are using their personal right to economic freedom. This action is a manifestation of private autonomy. The State, however, is not a body of constitutional rights or conventional freedoms. Choices made in contractual actions during the administration of public property are not manifestations of private autonomy, but actually are subject to the principle of legality, as is every State action. Private citizens do not need any legal foundation with which to bind themselves through a contract: this freedom derives from a constitutional right. On the other hand, the choices of the State on this matter are defined by the legal and constitutional institutional framework and only if these are allowed by law and are within the boundaries which law stipulates (Kaidatzis A., 2006:65). Since this paper discusses the political economy for privatization, the research will be limited to the constitutional institutional framework that defines and limits the political choices available in administrating public property and will not expand into the particular laws that specialize on the contractual possibilities available to the Greek State.

When considering the institutional framework set by the Greek Constitution, the choices available for administrating public property cannot be used to carry out radical liberal policies. Indeed, fiscal activity is planned and coordinated by the political administration, as defined by the provisions of chapters 1, 2 and 3 of Articles 106 of the Constitution. As a result, the ideological background of the Greek Constitution is more in line with the theoreticians of social contract, than with the neo-conservatives. Public interest, according to the Greek Constitution, is the general will which supersedes the needs of any private economic initiative. From this point of view, the Greek Constitution is closer to the ideals of Rousseau and far from dealing with the issue, according to the theoreticians of the “New Right”.

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Moreover, the constitutional restrictions according to which private fiscal initiative are not allowed to engage in activities which would damage national economy do not alleviate the related obligations the State is obliged to respect the field of private economic activities. It only sets certain specific and extreme boundaries on the freedom of such activities, especially in sectors that have aspects of monopoly and serve vital needs of society. Similarly, completely banning the regulatory powers of the legislator in the field of private financial activity is not constitutionally accepted when it leaves the general interest and the national economy unprotected and endangers the fruits of economic freedom with possible irrational choices of private financial initiatives. Thus, the Constitution precludes certain extreme options concerning the overall status quo of the economy, or the full liberalization of all economic activities (Tsironas A.:38).

It should be stated at this point that such constitutional obligations function on two levels: on the one hand, they directly bind administrative bodies, as all the State’s activities including its contractual activities are subject to the Constitution; on the other hand, constitutional obligations restrict legislative authority as they require regulation of the contractor’s selection procedure in such a way so as to safeguard the principle of equality. This contrast is a direct result of the difference in the constitutional quality between contracts in the public and private sectors. With respect to the latter, legislators are negatively bound by human rights; therefore, they can only intervene externally, setting the limits of private autonomy. The opposite holds true of contracts in the public sector, where contractual liberty is absent and the efficiency of contractual relations requires that choices be made in accordance to constitutional provisions (Kaidatzis A., 2006: 65).

This also influences the options available in managing public property; the State may be forced to yield part of its authority. Nevertheless, according to the relevant case law by the Council of State (CoS), the public sector cannot enter into a contract for activities that according to the Greek Constitution fall under the direct and exclusive jurisdiction of the State. Typical examples include national defense, law enforcement and the execution of justice or the penalties imposed by authorized courts. The Constitution offers more details as to what these activities are. There are three criteria that can help us define the activities that, according to the Constitution, fall under the direct and exclusive jurisdiction of the State: firstly, exercising public authority; secondly, public authority exercised as part of the social state; and thirdly, all those activities referred to in the CoS relevant case law.

All the above, in conjunction with the scope and content of the constitutional protection granted to private economic initiative, lead to the conclusion that the current Constitution does not enforce an exclusively free market economy. The restrictions imposed on business activity by legislation and regulation, as well as the direct intervention in the function of private enterprises, are considered constitutional State intervention. Naturally, these factors are in no way sufficient to define the Greek economic system as a purely public economy. However, they are sufficient to shake the belief that the
Greek constitutional order, that tolerates State penetration in private economic initiative to such a degree, provides for a pure free market economy. Hence, a more consistent view would be to say that the Greek economic system presents several elements characteristic of a mixed economy – a statement supported by the prevailing view as well as case law.

It is, therefore, obvious that the Constitution grants individual legislators a relevant freedom of action, in other words, a wide discriminatory power to tackle economic problems and shape broader economic policies. In this respect, the Greek Constitution could be characterized as neutral, since it does not restrict economic policy makers, but allows them the freedom to choose the policy they consider more appropriate to the given situation (Manesi A.- Manitaki A, : 1204). Given that the constitutional guarantees of individual rights and the social state are not infringed upon, it follows that the Greek Constitution can be characterized as open with respect to economic policy and the economic regime in general (Manitaki A., 1994: 1204).

However, the view that the Constitution is economically neutral is steadily being abandoned (H. – H.Rupp, :101). Even if the Constitution does not include special provisions that enforce a particular economic regime, it cannot be considered economically and politically neutral. Besides, the critical element that defines the character of an economic regime is no longer the balance of relations between production and ownership, as defined by constitutional economic provisions, but the constitutional balance between individual liberties and the corresponding State powers. The constitutionally protected economic regime attempts to strike a compromise between two extremes: on the one hand, there is the legal field pertaining to enjoying economic freedom and expressing private economic initiative, and on the other hand there is the field of State intervention, within which the State attempts to coordinate the economy and safeguard public interest. The State’s most important means of imposing power is economic penetration and participation in business activities (Tsironas A., : 43).

Taking into account the particular balance between economic rights and their restrictions, one could claim that the Greek Constitution allows for the enjoyment of economic freedom in a mixed liberal economy. It also makes provisions for exercising private economic initiative in a liberal interventionist economic regime. However, any political position that drastically departs from the current economic regime, regardless of whether it leans towards extreme liberalism or towards an entirely State-run economy, is incompatible with the Constitution. It follows that the management of public property must be practiced within the framework of neither a purely liberal nor a purely interventionist economic policy.

B. POLITICAL RESTRICTIONS ON PUBLIC PROPERTY MANAGEMENT

The Constitution is the main agent of imposing political restrictions on public property management. It is mainly provisions on individual rights that restrict absolute State authority with respect to political strategy development.
In particular paragraph 1 of Article 2 and paragraph 1 Article 5 of the Constitution prescribe respect towards the value of the human being, individuals’ rights to freely develop their personalities and participate in the social, economic and political life of the country, provided they do not infringe upon the rights of others, the Constitution and good usages. While not expressly establishing citizens’ right to economic freedom, these provisions, nevertheless, force the State to take into account and protect private economic activity while exercising its political power. Indeed, the Constitution does not contain any provisions proclaiming the protection of economic freedom as an individual right against State intervention. However, the aforementioned provisions of the present Constitution clearly establish individuals’ participation in the economic life of their country and offer a most solid foundation for the protection of economic freedom.

The Constitution establishes private economic initiative by laying the foundations of and providing for economic freedom. By making a special mention of the freedom of private economic initiative, the constitutional legislator restricts both State interventionism and private initiative itself. Hence, State interventionism is obliged to move within the limits deemed absolutely necessary to safeguard public interest. On the other hand, it may set limitations on economic freedom with the sole purpose of ensuring economic development in all sectors of the national economy.

In addition, according to Article 25, paragraphs 1, 2 and 3 of the Constitution, the rights of man as an individual and as a member of the society, as well as the principle of the social state based on the rule of law are guaranteed by the State. Any constitutionally accepted restrictions on these rights are provided for either by the Constitution or by law, provided that the restriction is subject to statute. The recognition and protection of the fundamental and inalienable rights of man by the State aim at achieving social progress in freedom and justice. The abusive exercise of rights is not permitted.

Furthermore, Article 24, paragraphs 1 and 2 place special emphasis on the determination of planning policy in Greece. According to these provisions, the protection of the natural and cultural environment constitutes a duty of the State and the right of every citizen. In particular, the master plan of the country and the arrangement, development and urbanisation is under the regulatory authority and the control of the State. Hence, when managing public property, policy makers should take into account the established spatial planning policy and protect it against private initiative intervention.

Lastly, Article 17 establishes the human right to own property. In particular, paragraph 2 states that no one shall be deprived of property except for public benefit which must be duly proven, when and as specified by statute and always following full compensation.

The constitutional provisions that directly or indirectly regulate the Greek economic life demonstrate that the constitutional legislator restricts participation in the economic life of the country, without, however, defining the form of this activity. Hence, whereas the dominant view accepts the
constitutional provision of economic freedom subject to statute, legislators retain broad discretionary power to impose certain restrictions. Certain restrictions are based on general, broad and often vague expressions lacking a specific regulatory content; however, these expressions are not without value, as they leave the constitutional provisions open to interpretation according to the prevailing sociopolitical views on social reality (Tsironas A., : 34-35.) In fact, it is often the case nowadays that Greek case law takes into account constitutional mandates and sets further limitations on the management of public property, restricting the latter and demanding respect for private economic freedom. A useful case in point is the example of the Greek National Tourism Organization (GNTO).

The Greek National Tourism Organisation (GNTO) is the most important owner of valuable state – owned tourist properties in Greece. Its ‘private’ properties are a valuable resource of multi-faceted significance on the national, regional, economic and social level. The issue that arises from the recent legal precedent relating to properties which have come into the property of GNTO after the completion of compulsory expropriation in its favour is particularly important. Several of these properties have not been developed over a long period of time and, as such, it is possible to expect a lifting of the relevant compulsory expropriations, provided this is requested by their initial owners. In this way, however, both GNTO and TD Co (the first state-owned company that has undertaken to manage and develop the numerous assets owned by GNTO founded in 1998) could lose their rights over either an entire property or part of it. Even in the case that TD Co looses its right over a part of a property, its development becomes extremely complicated, as the entire site is broken into pieces because of the existence within it of certain privately owned properties. Serious issues arose during the development of the properties acquired by GNTO through compulsory expropriation. Interpreting the Constitution and the law, the State Council argues that the Administration is obliged to lift a concluded expropriation, when it becomes obvious that an expropriated property has not been used for the purpose for which it was expropriated or for another cause of public benefit. Also, the revocation is enforced when a long time has passed and the public body has unjustifiably remained inactive for the realisation of the initial cause for the expropriation or for another cause of public benefit. In these cases, according to the legislation of the State Council, the Administration is obliged to lift the concluded compulsory expropriation as long as the owner agrees with it or demands it. Already, in several cases, owners have succeeded in Court to lift a concluded expropriation by the GNTO.

It is interesting, moreover, to refer to the judgment of an Adviser (Judge) to the State Council, which was expressed during recommendations made for a case related to the lifting of a completed expropriation (parts of the particular recommendations have been published in the press). The Adviser to the State Council also questioned the constitutionality of TD Co’s intention concerning the development of properties which were acquired through compulsory expropriations. In particular, she mentioned that TD Co’s aim has shifted, from implementing public tourism policies to an exercise in
profiteering based on the provision of tourist services and the exploitation of tourist properties. The initial objective, therefore, for the expropriation has not only been replaced by another, but this new objective is different from the initial one, since it cannot be accessioned into the framework of public policy by the State but falls into the realm of profiteering. For this reason, according once again to the adviser, the assignment of the management and administration of properties which were acquired through compulsory expropriations to TD Co, is not in keeping with the realization of a public cause. On the contrary, it suggests the Administration abandoned the implementation of public policy for the expropriated properties and decided upon their commercial development.

According to the above, the state is faced with an unintentional and contradictory institutional situation which it created itself, which is as follows: During the 2001 revision of the 1975 Constitution, and particularly the modifications to article 17 concerning ownership and expropriations, the legislator’s intentions are clearly in favour of greater protection of the right to private ownership by setting down stricter rules for the process of expropriation. At the same time, the state wishes to by-pass these statutory problems and the more general approach concerning the protection of private interests, in order to proceed with investments in properties acquired through expropriations. All the above are idiosyncrasies of the Greek political reality, and for this reason, an analysis through examples of the decisions made in Greek political economy is of special interest.

IV. GREEK POLITICAL ECONOMY’S EMPIRICAL APPROACH TO THE ADMINISTRATION OF PUBLIC PROPERTY:

A. ADMINISTERING GNTO PUBLIC PROPERTY WITHOUT ZONING OR TOWN PLANNING:

The state and the agencies which represent it, in this case GNTO and TD Co, are planning the implementation of investments without them falling under a regional plan which would offer further sanctioning to this policy. Concerning urban planning, most of the country’s regions are not covered by urban plans which would anticipate the appropriate uses for properties owned by GNTO and would support the intentions for their development. There was an unsuccessful – for many reasons - attempt to by-pass this obstacle for some large areas already by 1993 through the implementation of law 2160/1993. Finally, it is a characteristic example that the establishment of the National Tourist Plan was only assigned in 2006. Consequently, the impression is created that the development of GNTO’s larger properties adheres solely to financial aims. The aforementioned facts support – to a great extent – the political, intergovernmental clashes related to the ways of developing GNTO’s land assets.

Besides, Law 3270/2004 outlines the ways of developing GNTO’s property assets under TD Co’s management, after recommendations by the Privatizations Committee. At this point the law is vague as it doesn’t define which properties are to be developed through this process. Thus, TD Co is rendered a purely executive body which implements the Committee’s decisions, which – it must be
noted – has hired its own independent financial advisor to study the means for the development and the terms for the privatization of the properties. Consequently, the Ministry of Finance will be given – potentially – a regulating role connected to the development process of the properties and the management of the financial proceeds which will occur.

It is therefore apparent that even though there is a pressing need to integrate public property related to the tourism sector in the productive procedure, such a privatization in Greece is a difficult undertaking. The problems are considerable and many and cause intense political and judicial controversies. Through this maze of conflicting interests, the Tourist Development Co. has managed to institute the privatization of specific public property, without however being able to reach the goals set by its creators and always in the shadow of the legislature we have previously mentioned.

B. PRIVATIZATIONS ATTEMPTED BY THE TOURIST DEVELOPMENT CO.:

As already said, by the end of 1990s GNTO was looked into the mobilization of its large and diversified portfolio in real estate assets. The first state-owned company that has undertaken to manage and develop the numerous assets owned by GNTO was initially founded in 1998 (L. 2636/1998). TD Co aims at managing and developing assets by mobilizing both international and national funds, and converting it into a company for administrating subsidiary companies and rental contracts. This public sector company initially adopted innovative financing techniques such as Public-Private Partnership schemes to attract international capital, real estate and development expertise. Results are rather poor to date, as only few following notable projects have been completed.

More specifically:

- 2001 saw the beginning of the privatization of “Mont Parnes”, the sole operating casino in Attica, there was an international invitation to tender for transferring 49% of the subsidiary company of TD Co, which managed it, and the management of the casino to a private investor.

- Also in 2001, international invitation to tender were extended for the development of the Attica’s two marinas. These tenders were completed in 2002 with the signing of the relevant contracts. In the new joint ventures, in the companies that were created, TD owned 25% of the company shares.

- In 2003, another attempt for privatization was made, concerning the 150-hectare golf course on the island of Rhodes. The development program included the modernization of the 18-hole golf course, the construction of high-class hotels with a capacity of 1,000 beds, and 250 tourist residencies. Two consortiums of domestic and foreign enterprises were dealt in. One of the two consortiums pulled out and the property was awarded to the Rhodes Riviera Hotel Estate and Golf Development, but the contract was never signed. Following the Greek national elections in 2004, the new government decided
to cancel the original tender and issue a new invitation to tender. Till today, this new invitation to tender has not been issued.

Finally, a few months following the national parliamentary elections in 2004, TD Co was preparing to float on the Athens Stock Exchange. Its floatation was cancelled. The two reasons that were publicized most were: The ethics of granting private individuals the management of public properties mainly acquired by expropriations with public funds, and illegalities concerning TD Co management of GNTO properties.

There is a direct link between the dismal results achieved up to today and the theories of public choice and rent seeking. The Tourist Development Co. is living proof of the viability of these two theories, and could easily be used by theorists of the new political economy as a case study for the privatization of public property. The face-off of the two dominant Greek political parties, which do not aim at achieving the best possible utilization of public property, but rather at garnering influence over the citizens, initially corroborate the points of the theorists of the new political economy. It could be said, therefore, that the institutions are not usually put into place for the betterment of society, but rather to serve the interests of those that seek the power to enforce new rules.

V. CONCLUSION

As has been already discussed, privatization is a new mechanism aimed at fulfilling the duties of the State, which is characterized by increased participation of private citizens. The cooperation of the State with the private citizen in order to fulfill the duties of the State is part of the greater trend in which the State is in transition from possessing the role of producer to a role of guarantor and regulator. This is proof of the modern trend to adopt the theories of political economy, as they are expressed by the neo-conservatives. The State entrusts private citizens with carrying out part of its duties – in this case the administration of public property – without however transferring its responsibility and so without alienating itself from said duties. The division of labor between the State and citizen also entails the division of responsibilities between them. Thus, the responsibility for achieving the goals is transferred to the private citizen, but the State retains its role as a guarantor for the public, safe-guarding goods or services. At the same time, the State also takes on the responsibility of regulating the private citizens that are its partners, so as to ensure public interest during the execution of works or the provision of services.

On the other hand, as far as the Greek reality is concerned, the policy and implementation of the development of land and of privatizations cause serious and well-grounded objections. These objections are based on the constitutional right to property which is being violated by state practices even in cases where the state works in partnership with private individuals, as in the case of the Public-Private Partnerships. It is however noteworthy than on the issues concerning the means of development
of these properties, no solution acceptable to the judicial authority has yet been reached by the public services and TD Co. So, the process of development of these properties remains in abeyance.

It is for this reason that privatization of public property in Greece is progressing at such a slow rate. The only exception to this is the privatization of public property in the tourism sector, for the advancement of which the Tourist Development Co. was created. Even in the case of this company, however, the results are particularly poor. The reason behind these problems can be traced back to the lack of a coherent centralized policy concerning privatization in general. The opportunistic approach to privatization is blocked by the Greek constitutional framework, since it lacks research and planning. It is at this point that there is a possible field of application for the theoretical premises of the new political economy, and more specifically the theories concerning public choice and rent seeking. These theories can partially explain the currently feeble results of privatization of public property. It is deemed therefore of the utmost importance that a centrally organized policy on privatization is put into effect, so that the problems arising from decisions being taken without planning or cognizant policy can be dealt with.

The inclusion of public tourist property in the productive process is, these days, a necessity, but also a difficult venture. The issues which arise are numerous and important on social, financial, political and moral levels and often cause serious friction in Greek society. The present paper is a simple examination of the institutional aspect of this broad subject. Its importance does not only lay in the practical difficulties concerning the development of public property. To the extent that the Constitution forms the country’s statutory map and reflects society’s attitude towards the fundamental right to property, public or private, the constitutional difficulties which were examined are only part of the difficulties encountered in the process of the social and financial restructuring of the Greek state and of Greek society. This is the real point of questioning put forward by this paper.

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