Economic Recession, Democratic Recession – An Interaction:

The case of Greece

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Abstract

The close relationship between economics and politics is indisputable. The role of the market and the financial institutions is growing, particularly in the era of economic globalization. The general crisis of the democratic institutions has only got bigger in the realm of the last financial recession. In this context, Greece is emerging as one of the best examples to research and evaluate the impact of the financial crisis on the democracy levels of a country. In this paper I will be exploring the changes Greek democracy has undergone since the outbreak of the crisis in 2008. After presenting a short outline of the actions taken since 2008, the paper will focus on the current political situation of the country, with the goal to evaluate it from a democratic perspective.

Introduction

In the last decades there has been a great change in the way people experience democracy. Economic globalization, the ever growing influence of the market, lobbyism and the participation in supranational unions have, among others, altered the form of the democratic polity. Those changes have affected the main core of democracy, namely the connection between the political decision and the will of the people. Symptoms like the growing apathy of the people towards the democratic decision-making procedure, the reduction of the welfare state, inequality, corruption and the inadequate representation of the interests of some social groups have even brought some scholars to recognise the modern democratic polity as a "post-democracy".

The latest global economic recession, which officially started in 2008 and is still ongoing, came only to add even more factors to the current democratic crisis. The cost of the economic recession is not only financial, but also political, social and even sanitarian. The course of actions chosen to overcome this situation affects on many levels basic democratic rights.

1 Colin Crouch, Postdemocracy, p.19 ff.
The connection between democracy and economic development is undeniable. In the realm of a financial crisis, like the one we are experiencing now, this link is getting even stronger. The mechanisms that are used to overcome the financial deficits have a direct impact on political institutions and therefore also on the levels of democracy. Fiscal discipline, privatizations, bank bailouts, austerity measures are some of the mechanisms imposed on crisis-struck countries.

In this paper I will be examining this close and interactive relationship between the economic and the democratic recession. For that purpose, I will focus on the example of Greece, which in my opinion is the perfect way to demonstrate how the economic recession leads to a democratic recession and vice versa.

During the last five years Greece has become a synonym of the financial crisis, with tremendous political, economic and social impacts on the country. But this financial crisis is strongly connected to the democratic crisis which partly brought the country to its current situation and is getting worse due to the crisis. The current political situation in Greece is even being compared to that of the rise of the Weimar Republic. As the country continues to struggle its way through this crisis with the economic help of the IMF and the ECB, democracy is deteriorating. Putting aside the country's legal obligations as a member of a supranational union (EU), Greece's most important political decisions currently are met by councils not elected by the Greek people. Additionally, through contracts, whose exact content was publicized some years after they were signed and enforced, the Greek people are bound to a credit that will take a lot of future generations to repay. The ever rising unemployment levels, the dismantling of the welfare state and the gradual cut on basic democratic rights are marking an unpleasant era for the Greek democracy. At the same time the alarming rise of power of the Greek radical right wing party "Golden Dawn" comes to add yet another threat to the Greek democracy.

The Greek problem

In order to understand fully the alterations the Greek democracy has undergone due to the crisis, one should have a broader overview of the country's politics and its European identity. Greece became a member of the European Communities (EU) in 1981, shortly after the restoration of democracy after the dictatorship of 1967-1974. The participation in the EU marked a time of prosperity and growth for the country. In 2001 Greece entered the Euro currency, thus binding its economy with the fate of the European Monetary Union. By participating in the EMU, Greece, along with the other members, had to adjust its rates of economic growth and inflation. For countries like Greece, with rates below-average, the European Central Bank interest rates were too

3 http://www.ft.com/cms/s/0/dc877c6e-46df-11e3-9c1b-00144feabdc0.html#axzz2wbEvVK94
high, which meant that they had to drop their interest rates to match the ones of the ECB. These new, lower interest rates led to a flow of cheap capital, the increase of real wages and labor cost and an overall economic growth. But this sudden inflow of cheap capital also created the so-called financial bubbles of the countries of the European periphery. Therefore, on the brink of the global financial crisis of 2008, those economies were particularly vulnerable. Additionally, the ECB had no mechanisms of coping with problems of the individual economies of its members. Its regulating role was limited in preserving the stability of the Eurozone and the new currency, and therefore it was not prepared to face the individual problems that rose on the periphery.4

The financial crisis of 2008 was a crucial blow to the Greek economy. In 2009 the country's public deficit reached the 12,9% of the GDP, and by 2012 Greece's dept-to-GDP ratio had risen to 175%. In order to prevent the country's bankruptcy, which would also have had a huge impact on the stability of the Eurozone, Greece applied for the financial assistance of the European Union and the International Monetary Fund in May 2010. The "rescue pack" designed by the joined forces of the European Commission, the European Central Bank and the IMF, also known as "Troika", started with a €45 billion loan. In the next months the loan reached the amount of €110 billion. Along with the credit, the country had to enforce a wide range of austerity measures. By 2012 the country's public dept had reached 126.8% of GDP, making it obvious that it would be impossible to repay. The first negotiations about a bailout started, despite the strong objections of some of the country's creditors. In 2011 there was an agreement on the first bailout in the amount of €110 billion. The ever worsening financial situation of the country along with the rapid increase of its public dept led to an agreement on a second bailout. This reached the high of €130 billion (53% of the country's debt), making it the biggest bailout in modern history. Of course it was followed by a new range of austerity measures, which slowed down the country's economics even more.

In a first, quick attempt to evaluate the impact of all those measures, it would be quite useful to go through the report IMF released on May 2013 on its work on the Greek dept. According to the IMF specialists, the rescue programme had failed on many levels, partially due to the failure of the Greek government to respond in time and efficiently to the new measures needed to address the problem. According to the report, "market confidence was not restored, the banking system lost 30 percent of its deposits, and the economy encountered a much-deeper-than-expected recession with exceptionally high unemployment. Public debt remained too high and eventually had to be restructured, with collateral damage for bank balance sheets that were also weakened by the recession. Competitiveness improved somewhat on the back of falling wages, but structural reforms stalled and productivity gains proved elusive."5 Moreover, the project is being evaluated as "too

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4 Scharpf, Fritz W., Monetary union, fiscal crisis and the preemption of democracy, working paper.
optimistic", while part of the blame is also put on the EU for insufficient collaboration.

The politics of the crisis

However, the actual roots of the Greek crisis lie way beyond the current financial recession, and are strongly connected with some patterns that can be observed in the country's political tradition. The parameters that brought Greece to its actual situation are various and complex. Besides the economic factor, the political tradition in Greece has played a major role too.

The country's politics have always been marked with high levels of clientelism, bureaucracy and corruption. The Greek political scene has been traditionally dominated by two political parties, the centre right Nea Dimokratia and the socialist PASOK. In the years that followed the restoration of democracy, Nea Dimokratia and PASOK were the governing parties. The political reality that was formed was one of poor party clientelism, with public officers getting in and out of office with every new government. During those years the Greek state expanded enormously, since it had to create positions to please its voters/clients. Facts like the huge amount of public servants or the numerous universities and technical schools in every corner of the country, even though there was not such a big demand, mark an era where parties strived to satisfy "their own", by placing them in secure positions in the public sector. Additionally, the Greek bureaucracy has worked wonders; stories about people that are still receiving the pensions of their spouses years after the latters' death are unfortunately common in Greece.

Definitely one of the defining characteristics of Greek politics is corruption. According to Transparency International, Greece is now qualifying as the most corrupt country in EU. This first place translated into numbers means that approximately €120 billion were lost due to tax invasion during the first decade of 2000. Corruption in Greece is a habit that has penetrated all the social levels. But the biggest corruption scandals are found in the political system itself. Stories like the one of Siemens, which has been paying off Greek governments for the last 50 years, Vatopaidi, a small monastery in Greece owning huge amounts of real estate and four off-shore companies worldwide, or the famous "Langard list", which the Greek authorities lost in mysterious ways, making thus prosecution of corruption scandals even more difficult, they all give a particular flair to Greek politics. Of course the list of corruption scandals in the high of billions is never ending. The usual approach to such stories when and -most importantly- if they come to light is a witch hunt, with the rival political forces taking advantage of the situation to point fingers. The parliamentary committees that are formed to shed a light on those corruption crimes usually end up empty handed.

7 Source: Transparency International
The only exception is the former Defence Minister Akis Tsoxatzopoulos, who in the realm of the crisis and since a scapegoat was needed, is the only Greek official who was ordinary prosecuted and charged for corruption (in this case the amount is estimated to be around €10 billion). In this case, after an investigation ordered and carried out by a parliamentary committee, A. Tsoxatzopoulos was prosecuted and sentenced by the common justice. This is one of the rare cases that an investigation carried out by a Greek parliamentary committee leads to a conviction. What usually comes out of these committees is an even stronger polarization in the political system and a bigger disappointment and apathy of the Greek people towards politics and justice.

The outburst of the crisis has altered this model in some points, while in others it remains the same. The first government to face the problem was that of PASOK in 2009, with Georgios Papandreou as Prime Minister. Even though the latter at first denied any budget difficulties, in the course of events, with Greece directly facing bankruptcy, the Greek parliament signed the first Memorandum of Understanding with the EU and the IMF (May 2010). In the next months the Greek public sphere took an unpleasant turn. The PASOK government bore the whole burden of the new measures, without trying to expand its democratic legitimacy through collaboration with other political agents. Meanwhile, the two parties which had been dominating the political sphere in the last decades, Pasok and Nea Dimokratia, started an accusations' competition about which one was to blame for the current situation, instead of trying to find a common way through the crisis. On November 2011, under the pressure caused by the public unrest due to the austerity measures that had been adopted, G. Papandreou was forced to resign, and a coalition government of members of Pasok, Nea Dimokratia and Laos was formed. The new government was seen as a "technocrat" government, with the goal of designing and enforcing more austerity measures. In the elections of May 2012 no party was able to obtain the absolute majority. Since the parties were unable to form a government scheme, another general election took place on June 2012. Once again, no party was able to obtain an absolute majority, but this time a coalition government was formed between Nea Dimokratia, Pasok and Dimar, with Antonis Samaras as Prime Minister.

This electoral turmoil was particularly stressful for the people. Their reality was dominated by a wave of fear, since the reluctance of the Greek authorities to comply with the demands of their loaners, partly because they were afraid of losing more of their voters, meant that shortly before any new election or every new rescue packet they were pushed for time: either the EU and IMF would at last be satisfied even with the small progress Greece had shown, or there would be no money inflow. This had a particular effect on the way people approached those elections: under the fear that an unstable government or another election would displease the markets and Troika, many people decided to vote for the party they thought would have the majority needed to from a government, even if they were not feeling represented by its policy.
The legitimacy issue

One of the biggest questions that arise when evaluating the changes Greek democracy has gone through due to the financial crisis is that of the democratic legitimacy of the actions and the measures that have been taken during the last years.

The basic dilemma when a country is facing such a situation, where the decisions have to be made quick and efficient, is whether democracy is the best way to cope with it, or if a more authoritarian regime could perhaps be more useful. Those in favor of authoritarian constellations point out that dictatorships can be more efficient than democracies, since they are insulated from particularistic demands. Dictatorships can therefore apply harsher policies without having to worry about the public opinion or electoral cycles. This last factor can be observed in the case of Greece, where during the first years of the crisis the government was particularly reluctant to adopt crucial measures, which would probably have prevented the situation from getting out of hands. As argued above, the Greek political tradition has always been in favor of clientelism, so it was no surprise that the authorities chose again the easy path of avoiding to take action, in order not to dissatisfy their voters. Eventually, this course of action had to stop, once it became obvious that without measures there would be no financial assistance any more.

However, it is my opinion, that particularly in times of crisis, democracy is the best course of action, both theoretically and practically. The first argument on why a democratic regime is to be favored in times of crisis is the moral argument of personal autonomy and equality. As Dahl states "All members are sufficiently well qualified, taken all around, to participate in making the collective decisions binding on the association that significantly affect their good or interests. In any case, none are so definitely better qualified than the others that they should be entrusted with making the collective and binding decisions.". I think that this statement is the cornerstone of a democratic society, where the decisions come from the people and nobody is better qualified than the people themselves to decide what is best for them. Therefore, in times like those of a financial crisis, when basic rights are being affected (the right to the property, health, education, freedom of speech) the power of self-definition is even more important. This particular democratic right is currently being violated in Greece. Two important criteria for a democratic process are the enlightened understanding by the members of the policies adopted and their consequences and the control of the agenda by the members. This means that the people should decide how and which

9 Robert Dahl, Democracy and its Critics, p. 98
matters are included in the democratic agenda\textsuperscript{10}. However, the Greek government signed the Memoranda, without previously making their full content known to the public, while the country's fiscal strategy is mostly being planned by external agents with very questionable legitimacy.

It is especially in times of crisis though that the need for democratic legitimacy and consolidation is even bigger. Contrary to the belief, that an authoritarian regime with little need for legitimation and justification can be more efficient, a wider consent and approval of the actions taken can actually prove very important. When there is an agreement between politicians and the people on the actions that need to be taken in order to overcome the crisis and the burdens are equally and fairly shared by all the social groups, there are also going to be more stable governments, with greater legitimation. In that case, the elected government will not be that exposed to the electoral cycles and will therefore be freer to plan its financial strategy\textsuperscript{11}. When the people feel that their government is violating their basic rights, without any consent, then there is the possibility of democratic backsliding in form of civic violence, political polarization or a turn to more authoritarian political solutions\textsuperscript{12}.

Those elements can currently be observed in the Greek public sphere, where the inadequate legitimacy of the new policies has dramatically reduced the country's democratic quality. Since the beginning of the crisis there have been numerous manifestations against the austerity measures, some of which have even led to big riots (in April 2013 three people died after they were trapped in a bank during violent protests in Athens). Moreover, the country is experiencing a great political instability. It is very characteristic, that between 2011 and 2012 the Greek Prime Minister resigned and two elections took place. Both of the two major parties of the Greek political scene (Nea Dimokratia and Pasok) saw a huge drop in their votes and were therefore unable to form a government, so there had to be a coalition government\textsuperscript{13}.

One of the most alarming facts is the increase of the power of the right wing party Golden Dawn. Golden Dawn entered the Greek Parliament for the first time in the elections of 2012 by winning 7% of the vote. Since then, its power has been increased and, according to recent polls (01.2013 by Public Issue), 10% of the Greek people would now vote for Golden Dawn. The rise of the power of a nationalist party, which has been accountable for violent attacks against immigrants and members of the anti-fascist wing, is definitely posing questions about the quality of the Greek democracy now. Through a highly populist rhetoric, addressing the biggest problems of the Greek society (poverty, corruption, illegal immigration and unemployment), the radical right wing party

\textsuperscript{10} Robert Dahl, \textit{On Democracy}, pp 37
\textsuperscript{11} José María Maravall, \textit{The Myth of the Authoritarian Advantage}, in \textit{Economic Reform and Democracy}, pp15
\textsuperscript{12} Stephan Haggard & Robert R. Kaufman, \textit{The challenges of consolidation}, in \textit{Economic Reform and Democracy}, pp 3
\textsuperscript{13} Jonathan Birdwell/Sebastien Feve/Chris Tryhorn/Natalia Vibla, \textit{Backsliders: Measuring Dedocracy in the EU}, Demos 2013, pp 45
managed to increase its power to levels that it had never seen before. Even though there was clear proof and numerous incidents that linked members and supporters of the party to crimes against civilians, with the tolerance and sometimes even the support of the police, the Greek authorities only took action after the murder of Pavlos Fyssas, a Greek anti-fascist artist, on September 2013 by supporters of the party. In the months that followed several applications were formed and party members, supporters and parliament members were arrested on murder, violence and terror accusations. Today Golden Dawn counts 18 chairs in the parliament, while a parliamentary proceeding has started with the goal to declare the party illegal.

The reasons of the empowerment of a party that is accused for having formed a criminal organization are diverse and cannot be discussed in the frame of this paper. It is however also a sign of a bad functioning democracy. The Greek people have lost faith in their politicians, since they see them as subordinates of their lenders and highly responsible for the current crisis. The never stopping scandals, the abolition of the welfare state and the imposition of several anti constitutional measures only add to the disappointment of the people from their leaders.

Currently, maybe the biggest problem of Greek politics is the complete loss of faith of the people for their political system and representatives. Greece is now experiencing an odd situation, where, in a democratic country, the people go to the elections knowing that, regardless of who will win them, nothing will change. At this time, all the important policies concerning Greece are formed by the ECB, the EC and the IMF, which also have the right to monitor how those policies are being followed by the Greek government. In case of a disagreement, the power lies on the loaners, since they are the ones controlling the capital flow in Greece. This practically means that no political leader in Greece would ever decide to diverge from those instructions, since this would lead to the country's bailout. (if this is a valid possibility or not, cannot be discussed in this paper). That raises of course crucial questions about the respect towards a country's sovereignty. One very interesting example of this situation is the reaction of some European leaders when in the elections of 2012, Alexis Tsipras, the party leader of Syriza, started a political campaign declaring the denial of the Memorandum and proposing a refusal to continue the compliance with the country's obligations towards its lenders. Whether this was a viable policy or merely an inept attempt to win the Greek vote cannot be discussed here. On the realm of the elections, and as Mr Tsipras' suggestions seemed to be more and more appealing to the people, a small panic was spread among Greece's lenders that things could get out of hand. Therefore a relatively unethical propaganda started, which was presented Mr Tsipras as a major danger for the country, since the adoption of his policy would lead Greece to poverty and famine equal to that the country experienced during and after WWII (Greece lost 7% of its population during the war due to famine). The German Press
presented Mr Tsipras as one of the 10 most dangerous politicians in Europe\textsuperscript{14} while some German politicians officially talked about the great danger the politician was posing for Greece. Coming from a small country like Greece, it was really interesting to realize that at once the world not only knew this particular candidate, but was also pretty sure that his possible election would bring a catastrophe to the country. Of course everybody has a right to an opinion, however in the realm of an election, the most important expression of the public will in a democracy, this direct attempt to manipulate the people is highly unethical and constitutes yet another example of how Greece has abolished a great part of its sovereignty. It is namely not acceptable that, through spreading fear about a post war famine and poverty potential in a time where the Greek people are experiencing extreme austerity measures, combined with constant threats of the country's bankruptcy and exit of the Eurozone, this feeling of uncertainty is being exploited by the country's lenders, so that they can still preserve their control over the Greek politics.

This situation of external control and influence on the Greek policy has worsened even more the polarization of the Greek politics. On the one side the people do not experience the state as a cooperative mechanism which is representing their best interests. The state is now the "enemy", it is the institution which is mainly responsible for the actual situation and now it is also abolishing the welfare state and answering with extreme police violence every time the people decide to show their dissatisfaction through protesting. While pensions and wages are being steadily reduced, taxes and prices do not cease to raise. The fact, that no matter who is going to be elected this policy will not change, only worsens the apathy of the people towards politics. During the elections of June 2012 the abstention reached 38,8%.

The haste with which the Greek government tries to impose new policies and measures in order to prevent an eventual bailout often creates huge legitimacy holes. The first big issue is that of the ratification through the parliament of the Memorandum and the contracts signed by the Greek government. In order to research the constitutionality and legitimation of the contracts Greece has signed in the frame of the financial help the country has been receiving since May 2010, one should first understand the legal nature of those arrangements. The Memorandum of Understanding, signed between the Greek government and the European Commission constitutes an informal international agreement, which together with the European Stability Mechanism (ESM) create a complex legal formation. It contents acts of the Eurozone and the E.U., which have an intergovernmental character, along with acts of the IMF, which are considered as international agreements. In this case it is about two different legal contracts; the first is the Loan Facility Agreement between the Greek state and the countries of the Eurozone in the amount of €80bi and the Stand-By Arrangement between Greece and IMF in the amount of €30bi, which, according to the Vienna convention on

\textsuperscript{14} http://www.spiegel.de/politik/ausland/die-zehn-gefaehrlichsten-politiker-europas-in-der-eurokrise-a-848424.html
the law of treaties, is not an international contract. The Memorandum of Understanding defines the measures and the goals of the Greek economy for the next three years\textsuperscript{15}. The Memorandum was never ratificated by the Greek parliament, since it was attached in the legislation act ν.3845/2010 as annex and there was therefore no special parliamentary discussion or vote for it. This means that the Memorandum is not a law of the Greek state, but a programme which sets the financial goals of the Greek state and of course a condition for the fulfillment of the credit contract the country has signed. Since both agreements are falling under the regulations of international law, the articles 28Σ and 36§2 of the Greek constitution, which demand that all the international agreements should be ratificated through law in order to become effective, should be applied. However, both agreements constitute soft law and are part of the conventions under which Greece is a member of both organizations (E.U. And IMF), therefore there is no need for ratification in order for them to gain legal force. However, both agreements foresee the enforcement of financial burdens on the Greek people in the form of taxes, special contribution measures and wages and rent cuts, thus posing an individual charge on the people and therefore this credit contract should have been ratificated by the Greek parliament\textsuperscript{16}.

This latter fact does not affect the legality of the agreements, since under current international and European law they are binding for the Greek government. Nevertheless, they leave the Greek governments who signed them exposed in the intern Greek legal order. There is an explicit democratic deficit in those agreements, which are completely bonding for the Greek people for the generations to come and affect a wide range of their individual rights. The people, which according to article Σ1§3 of the Greek constitution are the only carrier of public power, have had no means to affect a decision such crucial for its future fate. Of course those agreements were signed by legally elected governments which were therefore theoretically legitimized to act in the name of the people who voted for them. However, in my opinion this hardly provides those acts with the necessary democratic legitimation. In times of crisis there is an even greater need for consent. And in this case, despite the huge protests and sometimes riots that Greece has seen since 2010, there has been no attempt to validate the governments' decisions through a more direct democratic approach, in the realm of measures that are directly violating basic constitutional rights.

The only attempt made in that direction was the referendum proposed by the PM of that time G. Papandreou, who in 2011, and under great social pressure against the austerity measures, suggested a referendum (referenda are not binding in the Greek law order), where the people should decide whether they wished the country to continue its EU membership or not. This naive attempt to

\textsuperscript{15} \textit{Μανιτάκης Αντώνης, Τα συνταγματικά ζητήματα του μνημονίου} (Manitakis Antonis, The constitutional issues of the Memorandum), pp 691

\textsuperscript{16} \textit{Μανιτάκης Αντώνης, Τα συνταγματικά ζητήματα του μνημονίου} (Manitakis Antonis, The constitutional issues of the Memorandum, pp 710)
manipulate the people by presenting the problem as if there are only two ways, either EU membership and extreme austerity or exit from the EU and poverty, was never realized. It is though still a sign of how the Greek politicians show their respect to their voters.

However, leaving the legitimation of the loans aside, the other big issue in the Greek case is the legitimation of the measures themselves. The Greek political sphere has a long tradition of operating outside the lines, sometimes under provocative ignorance of the law. In those troubled times, where the government finds itself in the need to operate fast, this practice is applied more and more frequently. I will present one characteristic legislature example to demonstrate how the respect towards the constitution and legality slowly begins to fade from the current Greek political reality.

In an attempt to cover a part of the huge budget deficit, the Greek state has imposed a wide range of special contributions, in the form of taxes. In 2012 Greece was the country with the highest rise in tax burden in the Eurozone. Even though the need to pose such extra taxes is understandable, the way it is being done is sometimes very questionable. In 2011 another special contribution was imposed through the law ν. 4021/11. This time a "special tax" was enforced on every landed property. The sum of the tax was made depending on the size and the age of the property, regardless of other factors of the tenant. Additionally, the tax should be paid through the electricity bill. It is a rather common situation in Greece lately that people cannot afford to pay all those new taxes that are being imposed on them constantly. But, since this particular tax should be payed through the electricity bill, that left taxpayers practically with two options: either pay the tax or, if they wouldn't pay it within 30 days, the Public Power Corporation had the right to stop providing them with electricity. In this way, a service crucial for the well being of the people was made dependent on the fact if a person had fulfilled his tax obligations or not. Initially, the Council of State declared the anti constitutionality of the cutting of electricity17 and recently, the Supreme Civil and Penal Court of Greece decided against the constitutionality of the whole law. The Court argumented that, since it is about a tax, it cannot be imposed depending on the size of the property, but on the financial situation of the tax payer. It also stated that the Greek people has seen a great decrease in its financial potential through taxes and wage cuts, and this legislation violates its rights to family and decent living. Moreover, it is declared as against the constitution that a tax is being imposed on a specific group of citizens, since taxation is a public, communal burden18.

This is one of the many examples of uneven legislation the Greek state has adopted in order to fill the gaps in the country's budget. The equalization in one year of the prize of heating oil to that of diesel left numerous households unable to pay for heating the last two winters. It is a common scene now in Athens, even in the more expensive suburbs, that people burn wood in order to keep warm, with the result that the air is getting dangerously polluted by the fumes produced.

17 Σ.τ.Ε. 1972/2012
18 Α.Π. 293 / 2014 Δ’Τμήμα
Privatizations

One of the most popular measures taken to help a country when it is facing a financial crisis, is that of privatizations. The capitalistic economy is based on the free market, a market that is self-regulating and should therefore remain as independent from the state as possible. Additionally, there is also the firm doctrine that the private sector is always more efficient than the public. Since the end of the 20th century there has been a shift towards the transfer of activity that was traditionally regulated by the state (hospitals, railways, post office) to the hands of private companies, with the expectation that once this activity is free from the burden of public economy (bureaucracy, corruption) it will be more efficient and profitable. However this raises the question, for whom this shift is actually more profitable.

It is true that the committal of certain financial activities to the hands of private persons can be useful in a pluralistic society. It is also true that the public sector is usually functioning under the burden of bureaucracy, corruption and motivation deficiencies. On the other hand however, nothing assures that some of those characteristics cannot be found in the private sector too. Through privatizations, a whole activity which has traditionally been owned and regulated by the state, under the rules that apply to public activity, is now being transferred to the rules of free market. What makes this transition a little problematic though, is the fact that the goal of the welfare state is the accessibility of the services to the community, while what matters in the free market is profit and capital accumulation. That means that services crucial to the public, like transport, water or energy are not any more administrated by the representatives of the people any more, but by the rules of free market. That usually means the quality of the services offered will be reduced and prices will rise in order to maximize the profit. This makes privatizations a very sensitive course of action. There is always the danger of abolishing too much of the state's activities and thus depriving the public of some of its basic needs. In addition, when privatizing certain state monopoles, there is a direct impact on the rights of the people using them. It is true that through selling its assets the state earns money. But the companies that are being privatized are usually companies which have been functioning at a loss. So, in order to attract buyers they are sold in prises way below their actual worth, which of course means a great financial loss for the public. The assets that are privatized constitute public property, which has been payed for by tax money. When they are being sold in prices way under their worth the tax payers are being deprived of their own property. Moreover, practice has shown that when some particular state monopoles shift onto the private sector the quality of their services worsens, while the prices rise19. Additionally, even when a certain activity,  

19 Tony Judt, *Ill fares the land*, pp 109
like for example the railways, is privatized, the state still carries the risk of operation, since it is impossible for the people to be deprived of it. This means that in a privatized activity the private owner runs the risks and collects the profits, but the state, and as such the tax payers, are responsible for paying the maintenance bills or even re-buying them. Very often, after years of low quality services and too high prices the state is forced to re-buy the privatized enterprises, but of course in prices way higher than those they were originally sold. This was recently the case in Berlin, where a campaign started with the goal that the city reclaims its energy providers, so that they would be administrated by the community\textsuperscript{20}. However, the cost of re-buying those assets was so high, that it made it impossible for the in debt city to proceed to the re-nationalization.

In the middle of the worst crisis the country has seen after WW II, Greece has opened its doors to privatizations and actually very massively. A few years ago, when the Greek crisis was a big media issue, the picture of Parthenon on sale was featured in various newspapers, in an attempt to over-dramatize the situation. It is an odd irony that currently, in a hasty attempt to make profits, buildings in Athens which have been declared as conservation areas are being offered for sale to private persons.

The privatization project of Greece has been assigned to the Hellenic Republic Asset Development Fund (HRADF), which was funded in 2011, under the constant pressure for Greece to liquify more assets in order to repay its dept. The legal status of the Fund is particularly interesting. As defined on its funding organization, the Fund is an anonymous company (S.A.) with the exclusive purpose to reclaim assets which belong to the private property of the Greek Republic, along with assets of public enterprises whose capital stock belongs exclusively to the Greek state. The revenues can only be used to repay the public debt. The Fund is operating according to the private law regulating the anonymous companies and is falling under only the private law of the free market and not under public law regulations. The regulations of the Greek administrative law, which inflict the procedure of public auctions and competitions for the contracts signed by the state, do not apply when it comes to the activity of the Fund. The latter is authorized to sign contracts through its Board of Directors, which consists only of private persons and operates under the supervision of the Minister of Finances (like all the anonymous companies in Greece). The long portfolio of the Fund contains a wide range of assets, like ports, public buildings, thermal springs, and even beaches. The assets that are available to the Fund are being transferred to it in full ownership, without exchange and free of every rights of third persons. There is the possibility though, that third parties can be compensated, according to the expropriation regulations. After the assets have been transferred to the Fund they cannot be reclaimed by their previous owners any more\textsuperscript{21}.

\textsuperscript{20} http://www.berliner-energetisch.net/
\textsuperscript{21} ν. 3986/2011
The structure and function of the Fund raises many legal problems concerning its democratic legitimation. Its legal status, an SA falling strictly under private law, is understandable, since that way the privatization process can go on without the delay imposed by a public procedure. However, this does not make it legal. According to the Greek administrative law, all the actions with which public goods are exploited are enforceable administrative acts, regardless of the nature of the department that is issuing them. The law of the EU, which according to the §28 of the Greek constitution transcends the Greek regulations, does not allow any public goods' transaction to be excluded from the public contracts regulations, regardless of the legal form of the agency authorizing them. (Directive 2004/18/EC). The Fund, however, operates exclusively under private law regulations and does not contract public contracts. There are numerous decisions of the Greek Supreme Administrative Court (Hellenic Council of State) that deny the constitutionality of some of the Fund's activities.

A very interesting example of how privatizations are now proceeding in Greece is that of the port of Piraeus, the biggest Greek port. In 2011 67% of the capital stock of the Piraeus Port Authority (PPA SA) was transferred to the Fund, so that it could proceed to its sale. The conditions of the sale are very questionable. The deadlines were cut shorter in an attempt to favor a particular candidate, thus eliminating competition, there was no open public competition, while the handling price is set at only €250bi. However, the legal issues are even more crucial. First of all, the port of Piraeus is a communal good and therefore, according to the Greek legislation and the latest decision of the Council of State (Σ.τ.Ε. 1212/2010) the Greek state cannot be excluded from the ownership of the asset, so that its legal status and purpose cannot be changed. The argumentation is that ports belong to the public and their purpose is to serve the public good, so that the state can never be completely excluded from their administration. Nevertheless the Fund is still proceeding to the sale of 67% of PPA to the Chinese enterprise Cisco. Since the first steps towards the closure of the contract with Cosco, there have been numerous protests and strikes in Piraeus and other major ports, while the National federation of Greece's port employees has filed an appeal at the E.U. questioning the legitimacy of the procedure. Meanwhile, even though another decision of the Council of State is pending, the negotiations of the Fund with Cosco are still going undisturbed.

The PPA case is only one of the many questionable privatizations which are hastily taking place in Greece right now. The Fund's very long portfolio of assets for sale includes the water, railways and electricity enterprises which are now being sold for prices below their worth. The short term gains of that action cannot be compared with the incalculable long term losses for the Greek people. Additionally, lately there have been added some very controversial assets to the Funds portfolio, namely buildings and real estate that are characterized as monuments (for example the former refugee residences in the Ampelokipi region in Athens).
In assessing the democratic deficits of the privatization project ongoing in Greece right now, one should at first examine the Fund itself. It seems that the only democratic legitimation the Fund enjoys is the fact that it was founded by law. Nevertheless, it is an anonymous company operating under exclusively the private law of the free market, even though its activity is to handle public property. As also stated before, this consists a direct violation of the Greek administrative law and the law of the European Union. And it also creates a great democratic deficit, since assets that belong to the state, and so the people, are now being removed from their ownership without them having any chance to affect the decision. The Greek people cannot influence any of the actions of the Fund (which assets are sold, under what conditions), while the activity of the Fund itself raises a lot of questions regarding competition regulations. Moreover, it is impossible in a democracy that highly valued assets that are serving important public needs (transportation, energy, water, nature) are now being excluded from the public control. The rights of mobility, accessibility, even items that constitute cultural heritage are now being handled by a private company, which not only does not answer to the people but also seems to ignore even the decisions of the Council of State.

Apart from the long, controversial conversation of how uncontrolled privatizations affect the democratic quality of a country, Greece is once again proving to be a rather surrealistic example of how privatizations can deprive people of their basic democratic and property rights. The total damage of this arbitrary selling off of public property, without any democratic legitimation will only be calculated in the years to come.

Conclusion

Maybe the biggest attack on democratic rights the crisis has brought upon the Greek people comes in the form of the gradual abolition of the welfare state. At this point the people in Greece are experiencing an ongoing cut in wages, rents and public services, while the cost of life does not seize to raise. According to Eurostat, the unemployment rates currently in Greece are 27% for the general population and 55% for those aged 15-24. Greece now rates seventh among the EUs poorest countries, with 26.7 percent of Greeks older than 65 living in the poverty threshold.

The Greek pharmacies are often facing a drug shortage, while some hospitals cannot even provide their patients with the essentials. There has been a rise in the number of children that are being abandoned at social services, because their parents cannot afford to provide for them anymore, even the number of suicides has risen (43% since the beginning of the crisis). And the list is getting longer.

Basic rights like those to family, decent living, property and associational rights are being

22 Source: Eurostat
violated. The crisis has led to big cuts in the funds available to finance basic sectors like that of health and education. There has been a 28.3% decrease in the public education expenditure since 2008 (source: GSEE), while for 2014 the budget will be €215 million less than the one in 2013. According to the Greek Union of Hospital Physicians the overall reduction in the public health expenditure during the last years is approximately 45%.

This picture of a country, where, despite the harsh austerity measures that are being imposed for the last years, the quality of life is dropping while there is no clear financial development, is very disquieting. The financial crisis and the way it has been handled by the Greek and European authorities has produced a big democratic backsliding in Greece. The frustration of the people towards their political system is obvious in every aspect of the political life. The disappointment by their democratic institutions, which have failed to protect them from such a situation has completely undermined the faith of the people towards their democratic institutions. Phenomena like the empowerment of the right wing or the strong tension among the people are definitely not that optimistic.

However, as a result of this financial and institutional crisis, several direct-democratic formations are being created in an attempt either to organize acts of civil disobedience, or in order to provide the community with services in a field the state has failed. Very interesting in this context is the 'Den plirono' (=I don't pay) movement, a not party controlled movement which organizes actions like the refusal of payment in the tolls, or preventing people from being evicted from their homes. In some cases, the people have formed 'service banks', a community where the services and goods do not circulate through money exchange but through personal labor contribution. This turn of the people to direct democratic, communal organization is one of the few good side effects this crisis has brought to the Greek society.

The future of the Greek democracy is definitely difficult to foresee and is strongly bound to that of the EU and the Eurozone. The actual conditions (poverty, unemployment, strengthening of the right wing forces) are all but optimistic, and the Greek society has been for a long time now under a lot of pressure. How all these factors are going to interact with each other and what will come out of this situation remains to be seen.

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