

The Hellenic Cadastral Policy Reform during the economic crisis: a case of vicious circularity

Evangelia BALLA, Mafalda MADUREIRA and Georgiadou YOLA, the Netherlands

Key words: Policy Reform, Cadastre, Digital Cadastre, Land Management, Legislation

SUMMARY

A public policy reform is a deliberate government effort to effect change in a public policy domain and deliver collective goods to citizens. The Hellenic cadastral policy reform (hereafter, “the reform”) aims to replace the existing Land Registry Systems (LRS), the Registrations and Mortgages System (RMS) and the Dodecanese Cadastre (DC) with the Hellenic Cadastre System (HCS) aiming to improve land tenure security. This reform designates new Land Administration Organisations (LAOs’) to operate the new conveyancing system, while phasing out the old ones.

This paper analyses how and why the LAOs’ were supposed to change, following six legislative initiatives partially enacted into law in the period 2009-2018, and discusses these intended changes in light of the conceptual framework of orders of change, proposed by Tsoukas to understand processes of policy reform. The paper is informed by a review of selected official documents, and by in-depth open interviews with members of legislative committees, employees at the Land Administration Organizations, government officials, politicians and other relevant experts.

Findings show that these initiatives encompass drastic organizational changes within a short period, and are marked by complexity arising from the gradual increase in domestic and foreign stakeholders involved, by recursivity in the magnitude of smaller changes that the legislative initiatives induced and included, and conflict as long as the intended changes lead to complications which are less technical and more context-dependent, value-laden and political. Thus, when a reforming government changes state organisations, without seeing the need to change itself, it traps itself in a pattern of vicious circularity (Pina e Cunha and Tsoukas 2015). The case of the Hellenic Cadastral Policy Reform thus contributes to study of vicious circularity and orders of change in the field of Land Administration, Organizational Theory and Public Policy.

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FIG Working Week 2020
Smart surveyors for land and water management
Amsterdam, the Netherlands, 10–14 May 2020

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1. INTRODUCTION

During the economic crisis period (2009-2018), three consecutive bailout agreements signed by the Greek government prioritized the completion of the Hellenic Cadastre Policy Reform. The Hellenic Cadastral Policy Reform (hereafter, “the reform” or HCPR) intends to replace the existing Land Registry Systems (LRS), the Registrations and Mortgages System (RMS) and the Dodecanese Cadastre (DC), with the Hellenic Cadastre System (HCS), with the aim to improve land tenure security. The development of the HCS entails the formalization of property rights, the classification of private & public property through the delineation of forests and seashores, and the phasing out of the organizational entities of the existing LRS along with the phasing in of the organizational structure to operate the new conveyancing system.

Land Administration Organizations (LAOs) are the institutions which provide services for the existing LRS or have undertaken the development and operation of the HCS namely the Mortgage offices (MOs), the Cadastre Offices of Rhodes and Kos-Leros and the Cadastre organizations. The design of the new HCS, according to the foundational cadastral laws of 1995 and 1998, provided that the introduction of the new system in the country, would be progressive: upon completion of the cadastral registration in an area, the conveyancing system would turn, from the RMS to the HCS. The period of the parallel operation of the old and the new system was named *interim*. In the interim period, the new HCS would be operating by the existing mortgage offices, either public, private or notary-run, which would continue to operate under their previous status, and under the supervision of the Ministry of Justice. After the lapse of the interim period, the Hellenic Cadastre and Mapping Organization (HEMCO), a public legal entity would have the responsibility for the operation of the HCS, through its, phasing in, regional Cadastral Offices; and the KTIMATOLOGIO SA, a private legal entity, which was established at the onset of the reform, would be abolished when the development of the HCS would be completed. Both of them were supervised by the Ministry of the Environment. Thus, one major issue remained at that time: “*the transfer of competence from KT to HEMCO: what, when, how?*” (Hernandez, 2003)

Thus, the transitioning to the new HCS requires significant transformations of LAOs. These usually take place through organizational changes in their processes, procedures, policies or even values and founding principles. Some are minor or moderate and take place incrementally. Others are deeper, transformational and irreversible, redefine an organization’s values and founding principles and may be threatening to its employees who face difficulties to adjust to the changed governing values (PMI, 2013; Tsoukas & Papoulias, 2005).

At the end of 2009, when a sovereign debt crisis hit the country, the cadastral registration had been completed in 6% of the country's area or 17% of total property rights. The HCPR initiated and evolved in the last 25 years, is now in its most critical juncture with a view to the completion of the cadastral registration throughout the entire country until June 2021, the establishment of nationwide cadastral offices and the effective operation of the newly established public Cadastre organization, which beyond the HCS undertakes the operation of the existing RMS and DC gradually from 2018.

In this paper, we analyse how and why the LAOs' were supposed to change, following six legislative initiatives partially enacted into law in the period 2009-2018, within the context of the broader cadastral policy reform. We discuss these intended changes in light of the conceptual framework of orders of change, proposed by Tsoukas (2012) to understand processes of policy reform. This framework identified three levels of change: the first order of change focused on technical issues that prevent a system from being more effective or efficient; the second order of change implied the adoption of new values by the organization or system; third order changes implied a change of the rules to the political and institutional setting within which the system or organization itself is found.

The paper is informed by a review of selected official documents (Laws and their Justificatory Reports, Presidential Decrees, Ministerial Decisions, Circulars, Public consultation notes, parliamentary minutes, press releases, newspaper articles). The analysis has been enriched with primary data collected at two different times: July 2019 and October 2019. During these periods, the first of the authors conducted in-depth open interviews as well as informal meetings with members of the legislative committees, employees at the Land Administration Organizations (current or former), government officials and politicians (with current or former responsibility on the LAOs), academics and professionals. The analysis and contextual interpretation of data, has been facilitated by the empirical knowledge of the first author on the cadaster policy domain in Greece.

This paper is structured as follows: section 2 presents the theoretical lens for our analysis. Section 3 present the findings of our analysis of the legislative acts which altered or attempted to change the HCS. Section 4 discusses the findings and the main conclusions.

2. LITERATURE REVIEW: POLICY REFORMS PROCESS AND ORDERS OF CHANGE.

A public policy reform is a deliberate government effort to effect change in a public policy domain and to deliver collective goods to citizens. Reform can be defined as "changing the state". Policy reforms can be classified according to several typologies. Tsoukas (2012) proposed a conceptual framework that captures three different levels of change that are involved in the reform process (Fig.1). This framework aids in the understanding of what changes have occurred and levels of potential impact within the context of a proposed policy reform.

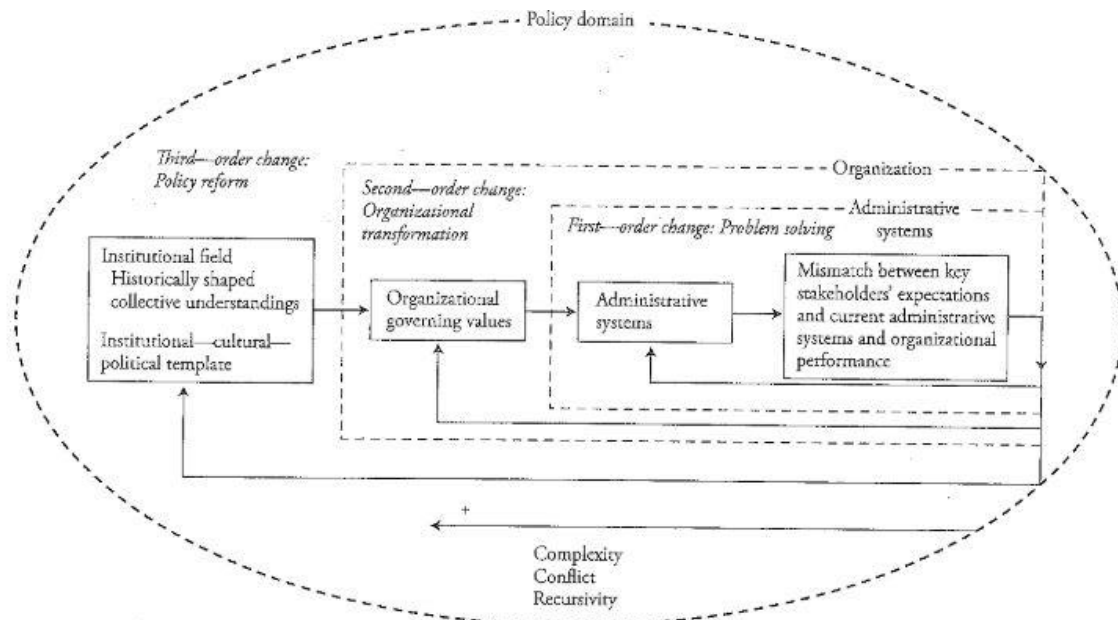


Figure 1: A conceptual framework of reforms (Tsoukas, 2012)

The *first level of change* refers to the adoption of technical or managerial measures to solve problems and improve current organizational practices that forestall a system from being effective. For instance, electronic prescribing (e-prescribing or e-Rx), the digital creation and conveyance of a medical prescription, provides a variety of benefits to the physicians, pharmacists, patients and to the state. The replacement of a previous paper based medical prescription aims, among others, to tackle inefficiency and possibly fraud.

The *second order of change*, refers to an organizational transformation which usually encompasses “the modification of an organization’s underlying norms, policies and objectives” (Argyris and Schon, 1978:2-3) which mark an alteration of an organization’s “governing values” (Argyris:1995), namely changes to the values that underlie the actions and strategies of the organization (Tsoukas, 2012). The aim is to improve the delivery of a collective good. Pina e Cunha & Tsoukas (2015) argue that the new values are seemingly more aligned to aspects of modernity, such as, “*efficiency, performance management, accountability, transparency*”. For example, the privatization of a state-owned organization aiming to transform it to a more customer- and performance- oriented organization is an example of second-order change.

The *third order change*, is the policy reform which typically involves the drastic alteration of the foundational/constitutive rules of a policy domain. It does not involve only an organizational transformation, but through it “*it impacts on the broader institutional field in which an organization is embedded*” (Pina e Cunha & Tsoukas, 2015). The transformational change of the Greek Public Power Corporation (DEH) in 2000, which led to partial privatization and restructuring of a ‘state political firm’ into a conventional firm-relatively autonomous, following the energy market liberalization, is an example of third order change which involves a simultaneous change to the broader institutional environment, as the organization transforms

itself (Tsoukas & Papoulias, 2005). A third-order change is frequently a part of a broader political endeavour to revamp a country's institutions.

The transition from first (problem-solving) to second (organizational transformation) and to third order change (policy reform) leads to higher levels of complexity, conflict and recursivity (Tsoukas 2012). *Complexity* is related to the number of actors associated with and affected by the change process. *Conflict* increases as the intended changes give rise to the emergence of complications which are less technical and more context-dependent, value-laden and political. *Recursivity* rises insofar as policy reform functions both as a medium to effect broader change in the institutional-political-cultural template of the country and as an outcome of the change itself. Tsoukas (2012) argues that the less complex, conflicting or recursive a change is, the higher the possibility to be adopted. Otherwise, the change process becomes more ambivalent, political and open ended, whereas the more recursive a change process is, the more likely to induce vicious circles.

The concept of *vicious circularity* has been explored in organizations (Masuch, 1985) or in policy reforms (Pina e Cunha & Tsoukas, 2015). Masuch (1985) argues that structural suboptimalities of organizations, such as underperformance, stagnation, or decay, are caused by vicious circles. Pina e Cunha & Tsoukas (2015) maintained that policy reforms, notably in southern European countries, have found to be usually trapped in *vicious circularity*. Furthermore, they identified several factors that can potentially lead a policy reform to a vicious circle. First, reforms are viewed with a structural mindset, bare of awareness that history, time, context and process matters. Second, reforms are top driven, leading to a frailty syndrome, a reform fatigue, throughout the hierarchy. Third, an authoritarian administrative culture reinforces the above syndrome of powerlessness, yielding to an increasing rivalry between opponents and resisters to change. Last, the reform drivers view the urgency to change the state, without allowing for the need to change themselves, undermining thus, the reform endeavours. Thus, “*the problem is the way we attempt to tackle the problem: and this is a meta-problem*” (Tsoukas, 2013), which leads to vicious circles.

In the next section we identify the orders of change according to the content of change and not within the recipient of the change as in the case of Tsoukas (2012). We analyse the intended changes of the legislative initiatives, as they had been passed from the Hellenic Parliament and we are not addressing either any later amendments of the enacted laws or their actual changes and outcomes.

3. THE HELENIC CADASTER POLICY REFORM AND THE ECONOMIC CRISIS

The onset of the economic crisis in 2010 directly highlighted the lack of integrated digital data for both public and private property. In Greece's Economic Adjustment Programme (EAP), pursuing macroeconomic stability meant, firstly, reducing public debt through privatizations and exploitation of public property and, secondly, reducing the budget deficit through the increase in public revenue, among others, from the taxation of private immovable property and

land transaction fees. However, the level of completion of the Cadastre inhibited its full utilization for clarifying the status of public real estate assets and for linking the Cadastre to the property database for fiscal purposes, held by the Ministry of Finance. Thus, the completion of the Cadastre, which requires the classification of public and private property for the whole territory was included into the long-term structural reforms to improve the business environment and to increase the country's competitiveness (Spanou, et al., 2019).

In the eight-year period of financial duress, the cadastral policy reform is replete with institutional and organizational changes and initiatives, in the midst of budgetary constraints and political instability, affecting the development of the HCS. Numerous targets were set, coupled with strict deadlines, whereas combined intensified efforts, from domestic and foreign stakeholders intended to accelerate the reform. The initial target set in 2012 to complete the HCS by 2020, revised later, in June 2018, to mid-2021.

3..1. The legislative initiatives to change the LAOs during the crisis period

In July 2013, following the respective provision of the 2nd Economic Adjustment Programm (EAP), the Hellenic Parliament passed the 4164/2013 Law which abolished the Hellenic Cadastre and Mapping Organization (HEMCO) and transferred its responsibilities to the Ministry of Environment and its operational arm, the KTIMATOLOGIO SA, renamed as National Cadastre and Mapping Agency SA (NCMA SA). The abolition of the HEMCO intended to rationalise the existing organizational structures in the cadastre domain by reducing the number of the organizations with similar and overlapping responsibilities; to increase efficiency by bringing significant cost savings (reduction in payroll and other administrative or facilities costs); to achieve economies of scale by concentrating administrative and support services in existing organizational structures; to create a favourable climate for investors for the provision of comprehensive and valid geospatial data; to simplify the collection of cadastre registration fees.

The law provided that the permanent Cadastral Offices would pertain to the Ministry of the Environment and the NCMA S.A. would have the responsibility to provide administrative and logistical support. The specific legislative initiative did not impact any change in the governing values at the KTIMATOLOGIO SA. However this change brought a strategic change in the governing values of the sub-system of the cadastre policy domain. The aspiration of the law to transfer not only the HEMCO's mapping responsibilities but also increased responsibilities for the cadastral offices to the KTIMATOLOGIO SA, illustrates a second order change. Furthermore, the law stipulated for the issuance of Ministerial Decisions to regulate technical and managerial problems, deriving from the abolition of the HEMCO.

The Law 4277/2014 (article 52 par.2) attempted to implement, as a pilot project, the new directions of the 2013 Law which provided that the Cadastral Offices would be supervised by the Ministry of Environment and bring an end to the so-called *interim* period, when the new HCS would continue to operate by the existing MOs, under the supervision of the Ministry of Justice. The specific legislative initiative provided that the transitional Public Cadastral Offices of Piraeus and Thessaloniki which were operating the HCS under the supervision of the

Ministry of Justice are “transformed” as Final Cadastral Offices under the supervision of the Ministry of Environment. It stipulated further that the NCMA SA would assist the Ministry of the Environment to that supervision. However, the law didn’t provide further for any change in the administrative routines, nor in the organizational practices or even in the legal position of employees’. On the contrary, the law stated explicitly that the change would not bring any effect to the legal position or rights of the employees. It was rather a “nominal” change in the supervision between the two Ministries, without any apparent impact. Thus, the law cannot be categorized as first or second order change.

In March 2014, the Hellenic Government set up a legislative committee to prepare a draft bill to modernize and simplify the collection of fees in Mortgage Offices, related to land transactions in all land registration systems, i.e. RMS, DC and HCS. This initiative was in compliance with the respective provision of the 3rd review of the 2nd EAP and in the context of of payment various fees to the State, which had already begun to be implemented (e-fee) through digital applications at the General Secretariat for Information Systems (GSIS) of the Ministry of Finance. Thus, it was decided that the payment of fees for the registration of deeds and issuance of certificates and copies by the Land Registrars to be carried out electronically through a dedicated digital platform. The Justificatory Report pointed out that the existing procedure of collecting fees was complex and ambiguous. An important factor of the detected weaknesses was the large number of private MOs. The proposed provisions promised to simplify the procedure for citizens; ensure the immediate collection of the fees by the State without delay; guarantee the uniform application of the provisions for the due fees throughout the country; facilitate the audit control of the collected fees. Furthermore, the draft law stated explicitly that it wouldn’t affect either the institutional or the financial status of the Private Registrars (Justificatory report).

The 2014 draft law was problem – solving oriented, intended to tackle the weaknesses of the existing system of collecting land transaction fees and their heterogeneity throughout the different MOs in the country, which did not allow for efficiency, uniformity and transparency. It is primarily a first order change, intended to introduce a new way of dealing with technical issues that prevented the system from being more effective (Pina E Cunha & Tsoukas, 2015). However, the law, implicitly, was influencing governing values and diachronic norms: the Private Registrars were implicitly transformed into a sui generis “civil servant”, since they would be paid by the State, after the collection of the fees to a central account of the Ministry of Finance. Thus, the draft law was blamed as “*reviving the status of the Soviet Union in our country, since freelancers (the Private Registrars) will not receive their remuneration from their clients (for which they are individually and indefinitely liable with their personal property, but also for tax purposes) but from the State!*” (Ministry of Finance, 2014). The draft law gave rise to many objections from Private Registrars their employees in the Private MOs’, lawyers and citizens, for other reasons. Nevertheless, the draft law was never brought to the Parliament. A few months later general elections were announced and a change of government followed.

In June 2016, the Ministry of Justice set under public consultation a bill on the "Reorganization of Mortgage Offices". The bill provided for the abolition of 236 Private and 141 Notary Run MOs and their merge and consolidation with 17 Public MOs, for the creation of 75 Public MOs

and 2 Cadastral Offices (Rhodes and Kos-Leros) throughout the country¹. The draft law was presented on public consultation without a Justificatory report. The specific legislative initiative was not included in the MoUs. However, primary and secondary data give evidence that this legislative initiative was triggered by two effects of the economic crisis:

1. the need to yield revenues from transaction fees directly to the public budget. The proposal of the draft law was justified by the fact that the Private MOs, despite their large number, did not contribute sufficient revenues to the public budget, whereas the Public MOs, which represent 4,5% in the total number of the MOs in the country, yield 1/3 of total revenues for the State over time (Psarra, 2016).

2. the need to tackle severe operational issues in Private MOs due to the retirement of 61 Private Registrars. A large number of private Land Registrars had retired at that time, a fact which led to problems for their replacement, since there was no incentive to undertake the operation in these areas, due to a sudden fall in land transactions and reduced revenues. Thus, the Private MOs could not manage to operate satisfactorily.

The draft law intended to ensure the public interest; the sustainability in the operation of the private mortgage offices; the job positions of the private employees in the Private and Notary Run MOs; the smooth transition to the Hellenic Cadastre System by 2020 (Association of Employees in Private Mortgage and Cadastre Offices, 2016). Furthermore, the draft law, included provisions to regulate the employee status of the private registrars and of the employees in the private mortgage offices. Specifically, the private registrars and the employees would have the right to either opt-in, as public ‘judicial’ servants or to resign from their positions within a month from the passing of the law, due to the transformation of the private to public MOs. The draft law thus illustrates a second order change: with the nationalization of the Private MOs, implicitly intended to “*the adoption of new values, presumably more aligned with some of the core tenets of modernity, such as efficiency, performance management, accountability or transparency*”(Pina E Cunha & Tsoukas, 2015).

The bill did not provide for any other changes related with the improvement of existing organizational practices or administrative procedures and it wasn’t accompanied by any timetable for its implementation. Then a change at the political leadership in the ministries of Justice and Environment in November 2016 led to a new agreement between the two ministries: to set up a joint legislative committee to initiate a new legislative procedure “*for the creation of a public organization which will succeed the NCMA SA and will initially consist of a central Agency and approximately 77 regional offices..This is an even larger scale reform, than the one proposed by the Ministry of Justice in the summer provided that, by consolidating the scattered but relevant services of the MOs and the NCMA’s into a legal entity of the core public sector. already in 2017, not only the interim period is regulated until the HCS is completed, but at the same time resolves definitively the issue in the period after the completion of the HCS, thereby freeing the employees from uncertainty : an issue which remains unresolved since 1998*” (Sarlis, 2016).

¹ According to the final version of the bill, which was presented on July, 22, 2016 at the portal of Ministry of Justice.

On February 2017, a lawmaking committee was set up by decision of the Minister of the Environment, for drafting a law for the creation of a single public organization, which will take over the cadastral services and the registration of citizens' rights (Decision of the Minister of the Environment 891/09.02.2017). In March 2017, the Minister of Justice, proposed an urgent provision to update an obsolete legal provision, from 1971, for the conversion of a Private to a Public Mortgage Office (Law Decree 811/1971), aiming to address problems encountered due to death, retirement or resign of a Private Land Registrar. The Minister of Justice argued that the legislation of this clause *“is a step in the right direction and even to the nationalization of the services of the Mortgage or of the Cadastral offices later, in the cases in which the mortgage office has virtually no investment interest in taking a private initiative, as is the case in many areas of the country due to the economic crisis”* (Hellenic Parliament, 2017: 247)). The provision was passed with article 32 of Law 4357/2017. The specific provision stipulated for the hiring of the private employees by the Ministry of Justice and for a procedure to appoint Heads of the newly converted Public MOs'. However, temporarily, as Heads of these MOs could be appointed the employees with a law degree and in case of lacking employees of this category, the ones with the highest seniority. In the latter case, in which the Heads of MOs are not holders of a law degree, the article assigned the duty to register any decision or deed which impacts property rights to the Magistrate of the Regional Courts. This specific provision, affected the value-system of a former Private MO and impacts the organizational behavior, thus can be regarded as a second order change. The legislation of this article enabled the issuance of Presidential Decrees, which converted and consolidated 20 Private MOs to 16 Public MOs.

In January 2018 the voting of the Law 4512/2018 abolished the NCMA SA, a private legal entity and introduced the HELLENIC CADASTRE, a public legal entity, supervised by the Ministry of Environment and Energy. The new public organization, consists of a central agency –based on the previous NCMA SA- and of regional agencies, namely 17 Cadastral Offices and 75 Branches their operation of which will begin gradually upon the abolition of the existing 33 Public and the 359 Private MOs. The central agency of the new public organization was organized around the organizational structure of the abolished NCMA SA with two more Directorates and several more new Departments. The 17 Cadastral Offices are geographically allocated in the capitals of the country's 13 Regions, whereas the most populated (Attica, Central Macedonia) or the most geographically dispersed Regions (South Aegean), were granted more than one Cadastral Office in other large towns/areas of these Regions. Each Cadastral Office constitutes a Directorate and consists of a Legal, Technical and Administrative and Economic Support Department, with distinct responsibilities. Each Cadastral office would be responsible for the maintenance, update and operation of the new HCS but also of the old RMS, till its replacement by the HCS.

The 2018 law designated 380 permanent staff positions in the central and 582 in the regional agencies, as well as, 92 positions for the Heads of the Cadastral Offices and their Branches. It stipulated transitional clauses for their coverage by the existing personnel of the NCMA SA and of the Public and Private Mortgage Offices. Since the majority of the incoming staff from the MOs is not specialized for the staffing of the Departments of the regional cadastral offices, the law created room to hire more specialized staff (article 17 par.4). In addition, the act stipulated for a) the judicial employees of the Public Mortgage Offices to either opt in the new

organization or to apply for their transfer to other judicial authorities so that would keep their status of judicial employee b) the Private Land Registrars to either opt in the new organization and be appointed as Heads/Deputy Heads of COs and Branches or to be appointed as lawyers or notaries in the jurisdiction of their mortgage office. Furthermore, the 2018 Law stipulated the provisions for the economic management (expenditures, procurements etc.) and the financial resources of the new public organization. The HELLENIC CADASTRE is self-financed and transfers to the public budget at the most 80% of its annual surplus. Its revenues consist of the fees for the HCS development during the cadastral surveying procedure, and the fees for the registration of deeds in the country's operating LRS, including the proportionate fees which were included in the 2014 draft law but never passed.

In conclusion, the Law provides for the conversion and consolidation of the Private and Public MOs to Branches and Cadastral Offices. Furthermore, it transforms the former NCMA SA, a private legal entity, to a public organization. Thus, it's a second order change which however its magnitude is significantly larger than all the other legislative initiatives, since it impacts all the LAOs' in the policy domain. In addition, it results in substantial first order changes in many fields in the affected organizations.

Table 1 provides an overview of the legislative initiatives discussed in this paper, their official rationale, the organizational transformation intended, and their intended effects.

Table 1: Legislative initiatives in Greece's Land Administrative Organizations during the years 2009-2018

Law	Official rationale	Content of change	Intended effects
L.4164/2013 Abolition of the HEMCO <i>Ministry of Environment</i>	From 2009 onwards emerged competition between the HEMCO and KTIMATOLOGIO SA due to overlapping responsibilities (Justificatory Report, Parliamentary session 11.06.2013, Permanent Committee of Production and Commerce, Hellenic Parliament).	Transfer of HEMCO's responsibilities to the: a) Ministry of Environment and b)KTIMATOLOGIO SA which is renamed as NCMA SA Public to Agency	to reduce the number of the organizations with similar and overlapping responsibilities; to increase efficiency by bringing significant cost savings ; to achieve economies of scale; to create a favourable climate for investors; to simplify the collection of cadaster registration fees
L.4277/2014 Article 52 <i>Ministry of Environment</i>	<i>"The goal of the transitional period for a smooth transition from the RMS to the HCS, has generally been achieved, especially in the cases of Public Mortgage Offices, like in Piraeus and Thessaloniki, in which the NCMA SA has undertaken their operation, fully." (Justificatory Report)</i>	a) transfer of their supervision from the Ministry of Justice to the Ministry of Environment b)assistance to the Ministry of Environment from the NCMA SA to operate the Cadastral Offices. Public to Public	to evaluate the operation of the specific Cadastral Offices, as a pilot project, under the supervision of Ministry of Environment.
Draft Law 2014 (Articles 1-11)	Modernization of the collection of fees from land transactions	a)Establishment of an electronic system for the	Establishment of a modern, clear, and transparent institutional framework which

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<p>Ministry of Finance</p>	<p><i>“to address the pathogenies in the existing system of collection of fees from land transactions”... which “is at the opposite of a modern, concrete and transparent legal framework, the implementation of which would be convenient, easy to control and of ensuring the public money” .</i> (Justificatory Report)</p>	<p>collection of land transaction fees b)introduction of uniform fees for land transaction to be applied by all Mortgage Offices (either public or private) throughout the country</p> <p>Administrative routines promoting "the public"</p>	<p>would facilitate the control of the public money</p> <p>Rationalization of the collection of fees in either public or private MOs</p>
<p>Draft Law 2016 (Articles 1-8) Ministry of Justice</p>	<p>Reorganization of the Mortgage Offices of the country <i>a)61 Private Registrars have left and due to the economic crisis there is no economic incentive to undertake the operation of the MOs, b) the MOs are to be replaced soon by the Cadastral Offices, c) The Public MOs –which represent only 4,5% of the total-collect more than the 1/3 of the total fees.</i></p>	<p>Merge of 394 MOs (out of which 15 Public MOs, 236 Private MOs and 141 notary run MOs) to 75 Public MOs (RMS) and 2 Cos (DC)</p> <p>Private to Public</p>	<p>It ensures: the public interest; the sustainability of the MOs; the job positions of the private employees in the Private MOs with “solid and permanent job”; the smooth transition to the Hellenic Cadastre System by 2020.</p>
<p>L.4456/2017 Article 32 Ministry of Justice</p>	<p>Conversion of Private Mortgage Office to Public Mortgage Office</p>	<p>With the issuance of a Presidential Decree (PD) which will convert a Private MO to a Public MO</p> <p>Private to Public <i>*Following the legislation of the specific article 20 PDs were issued which converted 20 Private MOs to 16 Public MOs</i></p>	<p><i>“Reopening of private MOs which were closed for many months;Collection of fees directly to the public budget without the commission of the Private Registrar; Preservation of the job positions of the employees in the Private MOs (no dismissals)” (Parliamentary records, Session 23.02.2017, pg.247)</i></p>

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<p>L.4512/ 2018 (Articles 1-42)</p> <p>Ministry of Environment</p>	<p>Creation of the Public Legal Entity “Hellenic Cadastre”</p> <p><i>“Lack of a clear organizational design as regards the organization of the public authorities which provide the services of the two land registry systems (sic),</i></p> <p><i>lack of central and horizontal organizational entities which would ensure the provision of services of high quality in a uniform manner</i></p> <p><i>diversity of labor relations in the personnel of the existing land administration organizations, and</i></p> <p><i>the sometimes serious conflict of interest of the involved authorities with the public interest for the operation of the HCS” (Justificatory Report)</i></p>	<p>-Creation of a new Public Legal Entity named “HELLENIC CADASTRE” consisted of a central agency and regional agencies (Cadastral Offices - Branches)</p> <p>-Abolition of the NCMA S.A.</p> <p>-Abolition of the 33 Public Mortgage offices and of the 377 Private Mortgage Offices within a period of 24 months</p> <p>-Establishment of 17 Regional Cadastral Offices and of 75 Cadastral Branches, their operation of which will begin gradually upon the abolishment of the Mortgage Offices within the period of 24 months</p> <p>-Determination of fixed and proportional fees for the registration of deeds, issuance of property certificates.</p> <p>-Public to Public (Public MOs to Cadastral Offices/Branches)</p> <p>-Private to Public (Private and Notary Run MOs to Cadastral Offices/ Branches)</p> <p>-Agency to Public (NCMA SA to HELLENIC CADASTRE)</p>	<p><i>-The provision of two (sic) land registry systems (i.e.RMS and HCS) from the regional services of one unified entity, organized as a public legal entity, staffed in a modern and rational way, with highly qualified personnel,</i></p> <p><i>-the removal of the severe operational weaknesses observed in the current system</i></p> <p><i>-the ensuring of the financial independence of the (new) organization, from the fees of the service recipients,</i></p> <p><i>-the immediate introduction of a rational and uniform way of organization of the registration services and of the publicity of rights throughout the territory by applying uniform rules, with regard to the registration and publicity of property rights and the manner of calculating and collecting the fees,</i></p> <p><i>-The ensuring of high quality of services and security in transactions, already before the complete transition to the status of the Hellenic Cadastre, through the gradual and controlled transition to a decentralized structure” (Justificatory Report)</i></p>
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4. DISCUSSION AND CONCLUSION

The legislative initiatives in the period 2009-2018, intended to address the effects of the economic crisis—especially in the operation of the RMS - and to accelerate the completion of the new HCS. The importance of the later was emphasized during the crisis: the HCS was essential not only to secure fiscal revenues from the real estate tax but also to attract new investment, including foreign direct investments, by providing legal certainty on property rights in the domestic real estate market.

The legislative initiative from the Ministry of Finance (draft law of 2014), intended to ensure the collection of transaction fees directly to the public budget. The other two legislative

initiatives on behalf of the Ministry of Justice (draft Law of 2016 Law and the 2017 Law), aimed to tackle the operational issues in the Private MOs', as a result of the economic crisis, by nationalising them: the first (draft Law of 2016), holistically, focused in all Private MOs and the latter (Law 4456/2017, article 32), spasmodic and fragmentarily in specific private MOs with the most severe operational problems, at that time. Notably, the problems intended to be solved through these legislative initiatives, such as the rationalization of the land transaction fees and the setting up of procedures which would facilitate audit and control on behalf of the competent public authorities and last, the sustainability of the Private MOs due to their vast scattering throughout the territory, were existent before the crisis. Thus, the draft laws of 2014 and 2016 can be viewed as delayed endeavours to modernize the RMS.

The legislative initiative of the Ministry of the Environment (Law 4164/2013) intended to simplify and clarify the political and administrative responsibilities of the competent organizations for the HCS, by abolishing the public organization, HEMCO, as one of the two organizations, in the cadastre domain. Thus, this law signals a strategic turning point with regard to the initial design of the reform, which, through the preservation of the private legal entity, the NCMA SA, promoted, at least implicitly, a preference at agencification. Nevertheless, it addressed pragmatically, an existing problem, related with the Janus face at the cadastre domain: the overlapping responsibilities and increasing competition between the two organizations (HEMCO and KTIMATOLOGIO SA); the greater operational capacity of the KTIMATOLOGIO SA compared to HEMCO; but also the elimination of differences between the two, especially after the flexibility loss of the KT SA at the onset of the crisis, as a result of other laws, which brought changes horizontally to all state owned organizations (Laws 3871/2010 and 3899/2010). Thus, the decision for the abolition of HEMCO, aligned with the general trend of reducing public organizations, during the crisis period, intended to address the gradual emergence of more problems from the preservation of the two organizations.

The Law 4277/2014 tried to implement, the new strategic direction of Law 4164/2014, as a pilot project, in the two cadastral offices of Thessaloniki and Peiraius: though without any actual change, apart from the change to the supervision of the Ministries. However, critical issues such as the establishment of the Final COs by the NCMA SA along with the supervision by the Ministry of the Environment and the completion of the cadastral registration all over the country by the NCMA SA, remained to be seen how they could actually be implemented in practice.

Nevertheless, the governmental change at the beginning of 2015 and the subsequent political developments which led to a third bailout agreement, resulted in the legislation of the Law 4512/2018, which signals a new strategic change. The 2018 Law redirected the reform, back to its initial design by creating a new public entity, the HELLENIC CADASTRE. The Law 4512/2018 redefines the scope of the Cadastral Office: the 1998 foundational law defined that the Cadastral Office is responsible for the maintenance of cadastral registrations whereas the recent 2018 law stipulates that the Cadastral Offices and their Branches are responsible for the maintenance of the old RMS and the new HCS. Thus, the 2018 law, even though it promised to put an end to the interim period of the MOs in fact creates a new interim period in which the newly formed so-called Final COs and their Branches undertake the operation of the RMS, this

time under the umbrella of a public organization. In addition the new public organization has to run: the cadastral registration in the vast part of the country's territory, the transformation of the MOs to Cadastral Offices and their Branches; the operation of the RMS till the HCS would be fully operable in the whole territory; the organizational transformation of a private legal entity, the former NCMA SA to a public organization, which has to either adapt to the more strict provisions of the public administrative law and learn the governing values of the new paradigm, as well as, to rationalize and streamline the different labour relations of the employees from Public and Private MOs and of the former NCMA SA.

But why? The legislation of L.4512/2018 can be viewed as the attempt to compromise and converge, two different logics, which were evolving parallel in the two competent Ministries, i.e. of Justice and Environment, in mid 2016: a) the consolidation and nationalization of the MOs on one hand, by the Ministry of Justice, through the draft law of 2016 and b) the setting up of the final cadastral offices, on the other hand, by the Ministry of Environment and the NCMA SA. Indeed *"Suddenly, different foreign technical assistance groups – in different ministries – realized that these people in this ministry they work in this direction and they think this way, whereas the other people, in the other ministry, they work in the other direction and they think differently. And it's like they don't take into account each other, even though there's a common point..."*. (Member of the legislative committee of the 2018 Law).

The 2013 and 2018 laws, might also be viewed as a back and forth trend (or a reversal) from private to public: the 2013 represent implicitly a preference to agencification, through the preservation of the NCMA SA, as a private legal entity *"which manages the issues more effectively"*, whereas the 2018 brings back the system closer to the public domain, by converting the NCMA SA to a public entity. Additionally, all the legislative initiatives signal a trend towards the centralization of fees and the nationalization of the land registry domain, accompanied by a change of the legal status of the employees from private to public. Notably, the State's legibility over the property domain increases (Scott, 1998).

One of the more significant findings, is the abundance of laws which intended to bring changes in the LAOs during the period 2009-2018. Too many legislative initiatives have been taken in a very short period, under conditions of extreme financial duress and political instability. Nevertheless, the enacted laws have increased the complexification whereas the last 2018 law, which promised to put an end to the interim period contains too many radical changes in the sector which have to be made simultaneously. Ultimately, legislative overregulation tends to obscure the wicked nature of the problem and undermines the need to identify the real causes. Thus it undermines the success of reforming endeavours (Spanou, 2010).

The overregulation in the cadastral policy domain is accompanied mainly by drastic second changes which escalate till the 2018 Law. The latest law, is a notable exemplar of organizational transformation which impacts the sector. The magnitude of changes that the 2018 law attempts, might bring forward a third order change since it involves changes in the historical dispositions at the governance of the existing LRS. Thus, through the massive organizational transformation, it might impact the broader institutional field in which the LAOs are embedded. In that case, it might replace and thus jeopardise the cadastral policy reform itself, a part of which was

supposed to be the organizational transformation of the LAOs. However the transformation of the LAOs will not complete the HCPR, which is dependent on the completion of the cadastral registration, the delineation of forests and seashores, but is part of the broader cadastral policy reform.

Through the enacted or attempted legislative initiatives, we notice an inclination to second order changes which affect mainly the governing values related to aspects/nuances of the dipole public/private: either in the legal position of employees or in the legal status of the involved organizations. Paradoxically, these are the main aspects that the legislative initiatives are targeting to, leaving thus, important issues which could make the organizations more effective, i.e. first order changes, like technical or managerial issues, unresolved or to be regulated later in ministerial decisions or other acts. Thus, aspects of modernization tend to be absorbed by old patterns (Spanou, 2010). This leads to another interesting finding: when a reforming government changes state organisations, without seeing the need to change itself, it traps itself in a pattern of vicious circularity (Pina e Cunha and Tsoukas 2015) : the ‘solutions’ become again a part of the reiterated problem. It’s the beginning of a vicious circle. Thus, “*the provision of services of the existing land registry systems from the regional services of one unified entity, organized as a public legal entity, staffed in a modern and rational way, with highly qualified personnel*” (*Justification of the 4512/2018 Law*), will not necessarily improve the quality of the land registration services, nor it will lead successfully to the completion of the cadastral policy reform.

The case of the Hellenic Cadastral Policy Reform thus illustrates a case of vicious circularity: as long as smaller-scale changes (1st, 2nd order) are driven with the same mindset that created the problems that promise to solve, the more they are trapped into the web of their intentions. So the reform, is undermined from the beginning. Furthermore, as long as, intended changes move quickly from problem-solving (1st order) through organizational transformation (2nd order), without changing the mindset, the more they move far away from the completion of the cadastral policy reform. Moreover, the fast shift from first to second order changes, entails a move towards greater conflict, complexity and recursivity (Tsoukas 2012). All of them are apparent in the case of the cadastral policy reform: Complexity has been escalated through the enacted or attempted legislative initiatives, since it involved gradually many stakeholders, either domestic or foreign, and thus increased the resistance (or pressure) to change. Recursivity is apparent in the magnitude of smaller changes that the legislative initiatives included and induced. And last, conflict increased since the intended changes lead to complications which are less technical and more context-dependent, value-laden and political.

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CONTACTS

Title : Evangelia Balla

Institution: University of Twente

Address : Hengelosestraat 99, 7514 AE

City: Enschede

COUNTRY: The Netherlands

Tel. + 31 (0)534 895 895 , +31(0) 683 150 870

Email: e.balla@utwente.nl

Biographical Notes

Evangelia Balla is currently a Doctoral Researcher at the Faculty of Geo-Information Science and Earth Observation (ITC), in the department of Urban and Regional Planning and Geo-Information Management (PGM), of the University of Twente.

Dr. Mafalda Madureira is an Assistant Professor at the Faculty of Geo-Information Science and Earth Observation (ITC), in the department of Urban and Regional Planning and Geo-Information Management (PGM), of the University of Twente.

Prof. Dr. Yola Georgiadou is full Professor in geo-information for governance at the Faculty of Geo-Information Science and Earth Observation (ITC) of the University Twente.