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LAND RELATED DISPUTES AND CONFLICTS IN ROMANIA

ABSTRACT

After December 1989, the Romanian government made efforts to re-establish a coherent legal and institutional framework for private rights in land but the whole process has been characterized by instability, incoherence and unjustified delays. The restitution of land properties in private ownership was a conflicting process due to divergent economic and social interests within the social base. At the beginning the restitution and privatization process was conflicted for ideological purposes mainly since decades of communist ideology advocated the equalitarian dogma, which was deeply rooted within the mentality of many people. Later on the conflicts were mainly driven by different economic interests. The actual number of land related disputes and conflicts are barely known, but estimates of these are high.

Key words: land conflict, land reform, rural space, ownership relations.

JEL Classification: P29, Q10, R10.

1. INTRODUCTION

After December 1989, the Romanian government made efforts to re-establish a coherent legal and institutional framework for private rights in land but the whole process has been characterized by instability, incoherence and unjustified delays. The Romanian land reform has involved three distinct process: de-collectivization and restoration of private property rights in land: the establishment of new farming structures, including the restructuring of existing large scale state farms in line with the new ownership patterns and the principles of a market based economy. Although initially conceived as a complete set of laws and regulations to secure land ownership and tenure (law on land restitution, law on registration and cadastre, land lease law, law on land selling and intervention agency) the legal and institutional framework set up was rather devious with large gaps of three-four and even more years between different laws (Hurduzeu, 2003).

The restitution of land properties in private ownership was a conflicting process due to divergent economic and social interests within the social base. At the beginning the restitution and privatization process was conflicted for ideological purposes mainly since decades of communist ideology advocated the equalitarian

dogma, which was deeply rooted within the mentality of many people. Later on the conflicts were mainly driven by different economic interests (Dumitru, 2002).

The present number of land-related disputes and conflicts are barely known, but estimates of these are high. For Romania, Hurduzeu (2003) approximates that in 2003, around one million people had been affected by land conflicts. This corresponds to about 5% of the entire population of the country.

2. THEORETICAL FRAMEWORK

The sociologists define a conflict as a social fact in which at least two parts are involved, with its origins are found either in the differences between their interests or in those between their social position: “the conflict is an inevitable aspect of human interaction, an inevitable consequence between choices and decisions” (Zartman, 1991:299).

Consequently, a land-related conflict can be defined as a social fact in which at least two parties are involved and the roots of which are the different interests regarding the land ownership rights: the land use right, the land administration right, the right to generate an income from land, the right to exclude other people from the land, the right to transfer the land. Hence, a land-related conflict can be understood as a wrong use, restriction or dispute related to the land ownership rights. The land-related conflicts defined as such can be aggravated, if the social positions of the involved parties are very different.

Although conflicts are perceived as destructive, they also have positive functions. The land-related conflicts can become engines of change, if they lead to a massive protest and to changes of policies and of their implementation modalities. Thus, it is important to approach the land-related conflicts in a constructive manner, instead of ignoring them or of trying to stop them.

A significant step in the diminution of conflicts is to better understand the requirements and interests, and last but not least, the involved feelings and emotions. In order to find adequate solutions for settling up a conflict, even a land-related conflict, the position and attitude of involved parties must be understood. The psychology and desires lie at the origin of conflicts, such as: fear of existence, fear of insecurity, desire to gain recognition, to be protected or loved. The material and emotional needs stem from this: the need to have a shelter, the need for a material base, the need of power and wealth, etc. These needs that shape, in fact, the people’s interests, find a result in their attitudes and positions, and finally define their behavior.

In the case of a land-related conflict, the problem is even more complex. There are different factors here that influence the people’s fears and desires, and the institutional aspects further aggravate the situation. The land-related conflicts are common conflicts and they can appear at any time and in any place. They often

generate strong negative effects upon the economic, social, spatial land ecologic development, mainly at the level of less-developed or transition countries, where the land market institutions are poorly developed, where the opportunities for economic gain through illegal actions are quite a common practice, and many people do not have access to land. The land-related conflicts can have negative effects both for individuals, for certain groups, or even for the whole nation.

When a land-related conflict exists, somebody suffers the economic consequences. Where there are many land-related conflicts, the social stability in the society is affected, as the land-related conflicts undermine trust and enhance fear and suspicion, often between people who used to be close, such as neighbors or family members. The violent conflicts, or merely the fear of being the target of such a conflict, may have traumatizing effects upon the involved people. Furthermore, when the state land has been illegally allocated, this adversely impacts the nation's budget and often leads to ecologic destruction or social exclusion.

The structures and functions of the Romanian rural area generate social tensions and conflicts. The conflict may induce a new social order, may lead to the creation of new values and customs, may substantiate new social spaces for the rural people's expectations and projections; the conflicts eliminate the groups, collectivities, the systems of values and norms, which becomes an obstacle to community development. The conflict is subject to the social order logic because:

- The social order (and not the social consensus) is the attribute of power; the most important aspect of social order is represented by the conservation of power through the intermediary of social control institutions (Dahrendorf, 1988);
- The social system must be investigated and considered in relation to the existing conflicts generating situations that contribute to the emergence and consolidation of pluralist society;
- The positive role of conflicts contributes to the increase of adjustments between the social groups (Cosser, 1956);
- The conflict is the main condition of social order (Mills, 1977).

The land-related conflict is the most frequent form of rural social conflict in the Romanian rural communities; it is the type of conflict that produced a history, a tradition of negative feelings between groups, yet it also resulted in the clarification of the differences of values.

The post-modern history of the land-related conflict originates in the interface between the external entities to rural area (governmental, governmental agencies, private business, etc.) that implement capitalist relations and the endogenous entities (farms, rural households, entrepreneurs, etc.). The land-related conflict stems from the failure to coordinate the exogenous and endogenous factors in the action to consolidate another social order. In this respect, the land-related conflict in rural Romania should be investigated as a social, historical relation between the two entities (exogenous-endogenous) rather than as a last stage of degradation of their relations.

For the people from rural, urban and peri-urban areas, land has very high material, symbolical and even emotional values. Under the influence of certain factors of political nature, this can easily turn into a tangible object of disputes, which can lead to the emergence of conflicts, even of violent ones. In the situations characterized by the lack of opportunities – rather than by poverty or inequality – the marginalized groups are mostly vulnerable to these actions/maneuvers, mainly when they make them believe that there are no solutions to their problems.

In Romania, after 1989, the land-related conflicts emerged soon, as a result of the deep changes produced at society level. The enforcement of legislation with regard to the ownership right reconstitution for the land properties that had been abusively confiscated during the communist regime, the political instability, the administrative and juridical reform, the proliferation of corruption and the system of interests represented important factors in the emergence and aggravation of land-related conflicts.

3. MATERIAL AND METHODS

The land reform initiated in Romania in early 1990s mainly focused upon the change of the land ownership regime by the reconstitution and constitution of private ownership right upon the agricultural land. The slow evolution and delayed implementation of land laws are considered as the main causes that have generated land-related conflicts and disputes (Hurduzeu, 2003).

Agricultural land restitution in Romania took place in four stages, each stage being characterized by legislative amendments that influenced or affected part of the previous land restitutions, which led increased confusion with regard to legislation application, and most often to overlapping:

Stage I (1991–1997), when, according to Law 18/1991 (Land Law), Romanian citizens could ask for the restitution of agricultural land areas up to 10 ha – in arable land equivalent – and of forest land areas up to 1 ha. In this first stage the premises for land-related disputes and conflicts were already created because:

- The people who had land areas into ownership larger than 10 ha agricultural land and 1 ha forestland were less favoured by the law. Practically, setting maximum legal limits on the land areas that could be restituted or owned by a family was rather equivalent to an “expropriation” of former land owners who used to have into ownership larger land areas before the communist period than the land areas possible to be restituted through the effect of this law. The enforcement of these legal provisions negatively discriminated those people who used to have large land areas into ownership prior to the communist period: these could not get back their property “in integrum”; the law positively discriminated the people who, although had not had agricultural land into ownership before agriculture co-operativization, got land into ownership, on a free of charge basis, by the effect of the same law;

- If a former land owner could not have his land property reconstituted on the former location, by law, the agricultural land could not be restituted, on an equivalent basis, in other administrative-territorial units, where surplus agricultural land existed;

- The enforcement of Law 18/1991 represented a premise for other land-related disputes that appeared in the next stages of the land reform, when the maximum limits to land restitution were increased and then eliminated. The disputes originated in the fact that in the subsequent stages of reform, the former owners claimed their ownership right and mainly the former locations, that had been already assigned to other people, through the application of Law 18/1991;

- The difficulties in the organization and operation of the Local Land Commissions for the establishment of land ownership right and of the Commissions at county level;

- The absence of ownership titles: at the beginning, the ownership right was recognized through a certificate (that was a substitute for the ownership title), the ownership title was issued in a next stage, and afterwards the technical formalities were fulfilled, for location identification, establishment, and the effective repossession. This system led to the emergence of a significant number of inconsistencies between the restituted areas registered in registries and the areas existing in reality;

- The compensation concept was not introduced. Law 18/1991 did not stipulate the right to be compensated for the non-restituted areas for those to whom the ownership right was not established “in integrum”. Furthermore, those who had not had land into ownership before the communist period could now get land into ownership, on a free of charge basis;

- The absence of the cadastral system by which the land properties could be accurately individualized generated overlapping of the property boundaries, and hence a poor delimitation of land properties.

Stage II (1997–2000) is characterized by the “acknowledgement” by policy makers of the discrimination produced by the effect of Law 18/1991 through setting a limit to the land areas that can be restituted and by the action to correct these deficiencies by promulgating a new law (Law 169/1997). Through the legal procedure established by Law 169/1997, the legal disputes existing between the beneficiary people and the local public administration authorities in charge of law application were transferred at the level of judicial power authority under a simplified form. In this stage, too, law application generated land-related disputes, of similar nature to those from the previous stage:

- Law 169/1997 also accepted land ownership right reconstitution claims for the difference between the already restituted land area in conformity with Law 18/1991 (maximum 10 ha per family) and the area contributed to the former agricultural production cooperative (30 ha per family). The law could not be applied, mainly because the fact that large land areas that could have been

restituted were under the administration of the former state farms that were transformed into commercial companies that were not at the disposal of the Local Land Commissions;

- The compensation concept was not introduced;
- The delay in issuing the land ownership titles as the repossession process according to Law 18/1991 had not been completed at the moment when Law 169/1997 was enforced, due to the numerous legal disputes. This generated an overlapping of claims for the restitution of the same land property and permitted a non-unitary interpretation and application of the legal provisions by the Commissions at county level;

- The conflicts between the laws made the judicial power be in the situation to judge by norms that already became obsolete at the date of trial.

- The issuing of the ownership title was not conditioned by the existence of cadastral registration although the Law of Cadastre and Land Registration had come into force in the year 1996.

Stage III (2000–2005). In this stage a new land law was promulgated, *i.e.* Law 1/2000. This law introduced provisions on the modality to compensate the persons entitled to ownership right reconstitution for which the effective repossession cannot be achieved, as the initial location is not free and there is no surplus of land on the respective administrative-territorial unit or at the disposition of the county commission in charge of establishing the private land ownership right.

Not only were the former owners entitled to compensation, but also the state for the value of existing investments on the territory of the restituted agricultural land areas.

Since 2001, the issue of ownership titles has been conditioned by the existence of the cadastral documentation with the observance of the provisions of Law 7/1996 on cadastre and land registration, with its subsequent amendments, which eliminated the overlapping and imposed a rigorous delimitation of land properties.

In this stage, too, the land reform legislation also generated land-related disputes, namely:

- The former owners of land areas larger than 50 ha agricultural land and 10 ha forestland were disadvantaged (the new maximum land property limits according to Law 1/2000);

- The temporization in submitting the proposals of land ownership right validation by the Local Land Commissions;

- Easiness of transferring the persons entitled to reconstitution in the annexes for compensation, although it could be proved later that the claimed land areas had not been the object of restitution or land appropriation on the basis of previous laws;

- Disputes related to the value of compensations.

Stage IV (2005 – up to the present) is dominated by the enforcement of Law 247/2005 on the reform in the field of ownership and justice, as well as certain related measures, through the recognition of “restitutio-in-integrum” principle.

The land-related disputes also continued in this period, consisting of:

- Disputes related to the value of compensations generated by the legislative pluralism regarding the calculation of the value of these compensations;
- Invalidation of certain appropriation acts issued after 1990 in the favor of persons who had the ownership documents prior to this year;
- The registration in the land book of all land areas is not complete, which can still generate overlapping of boundaries between the land properties.

After December 1989, the Romanian governments made efforts to re-establish a coherent legal and institutional framework for private rights in land but the whole process has been characterized by instability, incoherence and unjustified delay.

4. RESULTS AND DISCUSSIONS

The complex socio-economic processes that took place in Romania after 1989 largely contributed to the aggravation and diversification of land-related disputes and conflicts. The land reform, the state sector privatization, the administrative reform were elements that directly contributed to the emergence of land-related disputes and conflicts.

As it has been presented in the previous sub chapter, the reform process was initiated by the land ownership right reconstitution up to the limit of 10 ha in arable land equivalent and 1 ha forestland (Law 18/1991); after more than ten years, “restitutio in integrum” principle was applied (Law 247/2005). This process was based on a large number of laws and normative acts whose succession and modification of concept generated a series of land-related disputes and conflicts.

Limiting the access to agricultural land due to the “discrimination” determined by the legal provisions. This represents one of the main land-related disputes that emerged. It was generated by the sequence of land laws and encompassed two aspects. The former envisages the limitation of restituted land area to 10 ha and to 50 hectares in arable land equivalent in the period 1991–2005. Those who had had larger areas into ownership before agriculture co-operativization were discriminated in favor of those with smaller or no land areas who, according to the law, had the right to receive land into ownership. Thus, after 17 years, at the moment when the “restitution in integrum” could be applied, many land areas that are potentially claimable are already occupied; in many cases the land commissions do not have any land areas available to offer as a compensation and thus the former owners have to accept the variant of compensation through shares to a special fund (Fondul Proprietatea – Ownership Fund).

In Constanta county, National Agency of Agricultural Constancy officials noted that a high level of disputes over restitution claims – and the resultant high number of holdings whose ownership is unsolved – may also contribute to low frequency of agricultural land sales. (The number of disputed claims in Constanta may be relatively high due to the fact that the area of land claimed in restitution was about 125% of the total area available for restitution, causing claimants' holdings to be reduced by a uniform percentage.) In other regions, disputes between heirs to restitution holdings may still stall the process of establishing title to some holdings, and so impede possible sales.

Source: Duncan and Prosterman, 2000.

The second aspect of legal discrimination with regard to the access to the land property is the fact that in certain counties there is a deficit of claimed agricultural land and the Land Commissions had to resort to the proportional diminution of restituted land areas, according to Laws 18/1991 and 169/1997. This negative discrimination, through the effect of the law, was followed by granting fair compensations only after the application of Law 1/2000.

Also on the basis of Law 18/1991, the communes who had surplus agricultural land could constitute land ownership rights for the residents who were not cooperative members in the past. In conclusion, the law-based discriminations generated two types of situations: i) the first, in which the expropriated persons at the moment of cooperativization were the *victims of negative discrimination* as they were not restituted the entire expropriated land area and neither did they have a fair chance to receive (in the period 1991–2000) compensation for the land areas that they did not manage to get back; ii) the second situation corresponds to the *positive discrimination* and consists in the fact that, although the claimants could not get back the entire land areas contributed to the agricultural production cooperatives in the communist period, certain land commissions had sufficient land resources to appropriate land to people who had not had land into ownership before the communist period.

Ownership conflicts between state and private, common or collective owners. The main types of conflicts in this category appeared in the first place as a result of the reorganization of former state farms into commercial companies. The land areas into the patrimony of these companies included both areas that legally belonged to the state and land areas that belonged to private owners before the communist period. These land areas were excluded from the restitution process initiated by Law 18/1991, and the respective private owners became shareholders in the commercial companies through the effect of the law.

In practice, many land transfers took place from the state farms to the agricultural production cooperatives, as many owners claimed their land that was in the state farms.

Source: OECD, 2000.

The land areas in the patrimony of commercial companies as former state farms can be assimilated to a joint ownership of the state and of private owners. The spatial demarcation between these two forms of ownership (state and private) and between the areas belonging to different private owners on the location of former state farms did not exist in reality, which led to multiple conflicts after 1999 when the private owners claimed their land ownership right. Thus, the private ownership reconstitution was made on locations situated at the edge of former state farms so as not to lead to land fragmentation in the commercial company (and not on the old locations as stipulated by the legal provisions).

In the developing or transition countries, the dysfunctionality of institutions, as well as the institutional changes favor the emergence of land-related conflicts, yet the strongest element is the individual desire to maximize own profit, based upon emotional and individual needs (Wehrmann, 2008). This phenomenon is also visible in Romania, mainly in the case of land areas into state ownership, where different groups of interests, benefiting from the weaknesses of state institutions and supported by certain public employees/officials took hold of significant land areas, which they used for their own interest or sold them in exchange of considerable amounts of money.

The greatest pressure is felt at the level of land areas into state ownership in the vicinity of urban areas, where their value is much higher (determined by the high prices and the great real estate pressure).

Public ownership under the pressure of economic interests

In an interview, in 2008, Ion Antohe, senior researcher at the National Agricultural Research and Development Institute Fundulea, specified:

“Another modality to destroy the agricultural patrimony dedicated to research is land confiscation by prefects’ offices, under the pretext of its restitution to former owners whose land is under public buildings or irrigation facilities or who do not find their former locations, as if these had vanished into the air. In reality, as it happened in the county Teleorman, the land areas taken from the land reserve of the research stations are seized by deputies who put them at the disposal of private developers of areas under luxury villas and apartment blocks”.

Source: <http://www.formula-as.ro/2008/804/spectator-38/ion-antohe-drama-pamantului-romanesc-e-incalculabila-pe-termen-lung-9062>.

Cases of illegal use of land areas into state ownership were also signaled out in the category of conflicts related to the public ownership in Romania.

As the current legislation does not contain clear provisions on the responsibility for the state property, a series of conflicts of interests appear between farmers and concessionaires as well as land allocations in the protected areas.

The Romanian newspapers frequently present cases of illegal sales of land areas that are into state ownership, which take different forms, namely:

- i) illegal sale of unused land, by private persons and/or public officials;
- ii) illegal sale of land used for public or private interest, by the public officials;
- iii) illegal sale of land that is illegally used for private interest, by the public officials.

Conflicts related to the illegal use of land into state ownership

While the Ministry of Environment is trying to prevent desertification through ecologic reconstruction, the leaders of the County Council (CC) Tulcea, backed up by political people, want to maintain the agricultural and fishing status of the respective degraded land.

An eloquent case in this respect is represented by the agricultural land areas from Sireasa and Tatanir, where, a former senator, supported by the former management of the County Council, administers about 10 000 ha. Although this did not cultivate any hectare out of the 10 000 ha in 2005, the CC did not cancel his concessionaire contract. The actions taken by certain public officials for canceling his contract were blocked by the CC president, out of the reason he would have paid the royalty for the 10 000 ha. Even though the land was not cultivated, a lot of profit was obtained from the illegal use of this land by the sheep breeders. During the flooding period, it was discovered that dozen thousands of sheep were raised illicitly on these areas, as they were not into the evidence of vets or of city councils.

The local people's opinion is that leaders of political parties, as well as high officials from the institutions from Tulcea are behind certain companies that have rent contracts for such land areas with CC Tulcea.

Source: <http://www.romanialibera.ro/a15855/15855.html>.

Conflicts related to the illegal sale of land from the public domain of the state

A land area of 35 ha, in Cluj municipality, from the public domain of the state, was illegally sold to a local business man, by the institution that received it with the right to use it.

The conflict stages:

- *In the year 1997, the former prefect of the county Cluj and the former president of the State Ownership Fund established a protocol with a private firm for building up a trade center;*
- *In 1998, the same prefect assigns, without any justifying documents, a land area of 35 ha to a joint-stock company which, in its turn, entrusts it to the firm that had concluded the protocol for building up the trade center;*
- *The transaction between the two firms is concluded in 1999 by a sale-purchase contract;*
- *After the sale, the Romanian justice cancels the land registration document and the prefect's decision, but not the sale-purchase contract;*
- *The institution that had received the land into administration, a university from Cluj, makes efforts for the land to remain into the possession of private investor;*
- *In 2005, the investor destroys the experimental areas of the university and begins the construction of the trade center;*
- *The state representatives ask for the sale cancellation, out of the reason that the public domain of the state cannot be alienated;*
- *The court where the trial was transferred cancels the fraudulent transaction and disposes of its reposition into the previous situation; the investor's firm makes an appeal, and on the basis of secreete agreement with the university management staff the latter gives up the trial, in exchange for an amount of 8 million euro;*
- *Thus, the Romanian state loses the possibility to sustain the ownership right, and the estimated loss is 70 million euro.*

Source: <http://www.ziua.ro/display.php?data=2007-12-27&id=231173&kword=35+ha>.

There are also situations when the land areas into state ownership are illegally conceded to private entities.

Conflicts related to the illegal concession of the state land

At the mayor's initiative from Brăila, the Local Council of the town on the Danube had an unequalled performance: through a decision from the year 2005, it illegally conceded almost 250 000 m² from the area of the port of Brăila. The area was into the public ownership of the state and it was ceded to a private firm, where the majority shareholder is the president of the County Council Brăila; furthermore, at the concession moment, this had a 8 billion ROL debt to the Local Council, coming from non- paying the rent for the land area that has been received now as a "gift".

Source: <http://www.adevarul.ro/articole/2005/primarul-cibu-i-a-concesionat-ilegal-presedintelui-cj-portul-braila.html>.

Boundary conflicts that mainly appeared in the first seven years of land reform application due to the implementation mechanism of land ownership reconstitution (thus, the ownership right was proved by a land ownership certificate that was used instead of ownership title; the ownership title was issued afterwards and later on the technical formalities were fulfilled for the identification, establishment of location and effective land appropriation). Out of this reason many inconsistencies appeared between the written facts and the reality in the field, which led to overlapping of the land properties boundaries. After taking the land into possession on the basis of the ownership title, the owners began to exercise their use right on the basis of land measurements achieved with rudimentary/traditional instruments that in many cases generated boundary-related conflicts. These conflicts were most often settled by the local land commissions by speeding up the technical formalities for the location identification and establishment. Yet, in many cases, the conflicts in relation to land property delimitation persist until nowadays, and in certain cases the owners even refused the ownership title.

„...in Romania 48% of households in our survey do not have final land titles yet. In Romania, another reason is that households refuse to accept titles because they contain incomplete or simply wrong measurements of plot borders”.

Source: Stahl, Sikor and Dorondel, 2007.

The land reform generated land plot boundary-related conflicts not only between the individual owners but also between the administrative-territorial units. The main cause was that the land reform was produced while taking into consideration the land areas in the cooperative farms existing on January 1, 1990; this without taking into consideration the fact that the collectivization process took place before the Law 2/1968 on the administrative organization of Romania's territory, when the communes, towns and counties were re-organized or as a consequence of this law some of them did not even exist. In these conditions, the restitution claims of certain former cooperative members were addressed to the territorial-administrative unit where their land areas contributed to the cooperative farm had been located before 1968; these land areas often did no longer belong to

the respective communes as following the administrative-territorial organization they had been transferred to another commune/town. Thus situations emerged when certain land commissions did not have the necessary land areas to cover the restitution claims, while other commissions had significant land surplus. This is the main reason for boundary-related disputes between the administrative-territorial units.

Ownership conflicts linked to inheritance. After the year 1990, the right of people to inherit agricultural land properties was re-established, as in the communist period people did not have the right to inherit real estate properties of agricultural land type. The ownership right reconstitution was based upon the claim submitted to the local land commissions. The claims could be submitted by the person who contributed land to the cooperative farm in the past or by his/her inheritors. The ownership title was issued on the name of all the inheritors and subsequently they had to establish how to divide the land (the portions to which each of them were entitled). Conflicts appeared in relation to the dualism between the tradition in the transfer of property in the pre-communist period (the parents used to give the young couple on their marriage the share of land that would inherit) and the provisions on successions of the civil code (the successional mass is equally divided between the heirs of the same rank). Thus, some of those who claimed the restitution of their land could benefit from both regulations – the common law and the civil law – as they could claim the restitution of the land areas they had received from their parents as marriage dowry and the land areas that their parents had contributed to the cooperative farm in the past, together with the other brothers (still unmarried when the cooperative farm had been established). Such situations generated disputes between brothers in relation to the land property.

The legislative pluralism generated by this succession of regulations on the land ownership right reconstitution is one of the greatest problems that generate land-related disputes and conflicts in Romania at present. The frequent legislative modifications, setting limits to land areas that could be restituted to former owners in particular (1991, 1997, 2000, and 2005) led to the establishment of concrete juridical relations that remained with no object due to the legislative interventions. The law conflicts in time were created both by the judicial power that created a jurisprudence judging by norms that on the date of the trial were already obsolete, and by the non-unitary application and interpretation of the legal provisions by the land commissions at county level.

Disputes over the value of land also appeared during the land reform and are mainly related to the value at which the compensation is made, when it is not possible to reconstitute the claimed areas to the entitled persons or to offer them other land areas as compensation. The conflicts of this nature are much more frequent in the urban area, where the land market value is much higher. Furthermore, the legislative pluralism aggravates these disputes, as different laws (*i.e.* Law 1/2000 and Law 10/2001) establish different calculation procedures.

At the same time, the periurban areas have also experienced an unprecedented development in recent years, as they became an extension of towns and acquired industrial, storage, commercial functions and in certain cases they became residential areas. As regards the typology of conflicts, Wehrmann (2008) identified a series of land-related conflicts specific to the periurban areas, among which the following were noticed in Romania: i) increase of the intravilan land area used for the construction of different economic activities (industrial, storage spaces, commercial spaces) to the detriment of extravilan land areas under agricultural and forestry uses; ii) informal acquisition of land by people or groups of people (groups of interest, groups of speculators); iii) sale of land to several buyers, at the same time, etc.

As in the last 50 years in Romania, towns experienced great development, the constructions developed on a fast and chaotic basis on the free land areas, sometimes by the destruction of certain green areas. The illegal sales and renting of public or private land, the non-observance of construction rules in particular are two types of conflict that mainly appear in the periurban communities; they are more intense as the town, influencing the periurban areas, is more developed. These types of conflicts are maintained by the existence of certain groups of interests and by their influence upon the local and central authorities.

Land administration system (land registration and/or cadastral system) and more precisely this system deficiencies have generated a series of land-related conflicts. The deficiencies of the cadastral system are a significant hindrance to the land market operation as the absence of cadastral documents makes it difficult, if not impossible, any land transaction, as long as the parcels included in the transaction cannot be identified with certainty, their boundaries and location being not certified.

Ownership conflicts due to lack of land registration are represented by the disputes generated by the fact that several owners claim the same land property or parts of it, coming with valid ownership titles that are not accompanied by the land book extracts as the registration in the land book has not been achieved/finalized it. In Romania, the only act that guarantees ownership is the land book extract rather than the ownership title.

For safety purposes in relation to land ownership, and for concluding the sale-purchase documents or other juridical acts, every citizen should register the land in the Land Book.

The land registration procedure is difficult and expensive. There are localities where the sale price of land does not cover the costs for cadastre and land registration (Dumitru, 2002). Furthermore, the law that regulates the cadastre and land registration was adopted only in the year 1996 (Law 7/1996), at five years after the land ownership reform initiation, which generated boundary-related disputes between owners.

An important component of restitution is the timely registration and issuance of documents certifying private ownership. These processes can be delayed for a variety of reasons, such as difficulties in matching beneficiaries with land, various kinds of disputes, and administrative problems in registration and document issuance. While there are still delays, they do not appear to be primarily the fault of the legal rules, but rather reflect factual problems such as boundary disputes or disputes among heirs which are unavoidable during restitution. ...In any event (and despite the existence of up to 700 000 continuing disputes as compared to the five million beneficiaries), it is estimated that 75-80% of restitution beneficiaries have not their rights registered and have received their documents.

Source: Prosterman and Rolfes, 1999.

For land registration, an authorized land surveyor must draw up documentation, and the fees are established according to the area of land. The documentation is approved by the Office of Cadastre and Land Registration (OCLR – Land Book), in exchange for a fee. The land registration documentation must be drawn up by state institutions, so as to re-equilibrate the areas when needed, this because certain ownership titles are not consistent with the real situation in the field. Theoretically, there is the risk that the last person who will register his land would not find his land conform to the ownership title. Normally, all ownership titles, by localities and plots, should be correlated with the real existing area, so that if the diminution of the area to be restituted is imposed, this diminution should be made on a proportional basis for all owners and not only for those who come last to register their land. According to the technical land registration norms, in the case in which the area registered in the ownership title is within the plus or minus 2% limits, the land registration is made at the level of area written in the ownership title. If the land area in the field is smaller, yet with a value higher than 2%, the owner has to draw up a notary act by which he agrees to give up the land difference versus the land area written in the documents. Another situation is that the land area is larger in the field compared to that written in the title. In this situation, the owner has to justify the surplus area only on the basis of legal documents.

There are certain authors that complain about deficiencies in the very operation of the cadastral system, drawing the attention upon the low technical endowment of the cadastral offices, low training and remuneration of staff, and large amount of work versus the number of employees, which resulted in great delays in issuing the cadastral documents (World Bank, 2001).

Land-related disputes and conflicts generated by land market. Starting from forbidding/limitation of the right to sell agricultural land, continuing with the informational asymmetry and ending with the transaction costs, all these have also generated a series of land-related disputes.

Even on a perfect land market, no optimum land use model can be established from the social and ecological point of view. Conflicts appear as a result of the lack

of consideration with regard to the environment, as the economic interests prevail to the detriment of natural values (transfer of agricultural and forest land in the category of land used for constructions – at a fast speed in the periurban areas).

Land market development and consolidation in rural Romania has a particular importance, not only because of the important role of land as production factor, but also due to the advantages with regard to: improvement of the land ownership structure; increase of farm size resulting in a competitive farming system, elimination of arable land fragmentation possibilities through the application of the pre-emption right for co-owners, neighbors or lessees.

However, the Romanian land market is not unitary; it is rather a conglomerate of small and various markets, depending on the zone of the county where they are located. Yet, this market is insufficiently developed and distorted, the limited property transfer prevailing (Toader, Răgălie, Hurduzeu, 2002).

Among the factors that entail dysfunctionalities in the transactions on the land market from Romania, we can list the following:

- People ignore legislation and necessary formalities;
- A lot of bureaucracy exists due to the legalization of notary documents and their registration at the cadastral offices;
- High notary and transaction fees compared to the land market price.

The land markets in the urban and periurban area have the following main characteristic: the available land areas for transactions are much smaller, yet the demand is very high, which determines high transaction costs (sale/purchase, land lease, etc.). It is in these areas that the interests of the large companies are manifested, which have non-official information regarding the development projects of the respective areas, where they carry out illicit transactions with the complicity of local authorities.

These two elements, *i.e.* the land restitution process and the inefficient land market represent one of the causes of the land conflicts in Romania, which add to: manifestation of strong local interests, mainly at the level of authorities, favoring corruption, lack of measures for sanctioning the abuses and illegal actions, the complicated and over solicited juridical system, which leads to the prolongation of conflict situations, and last but not least, the existence of a high social inequality level – with a direct proportional relation between this and the high conflict possibility (Russett, 1964, Nafziger and Auvinen, 2002, Muller, 1997). These general causes of land-related conflicts in Romania add to specific causes:

- In the rural areas: the tensions generated by the competition for land – between the large producers and the individual household farms, which, although not viable from the economic point of view, do not want to alienate their land to the former – as the land is an essential social-economic factor for the future of households;

- In the periurban areas: the ever increased pressure generated by urbanization development (emergence of different groups of interests and their influence upon the local authorities with regard to the acquisition of certain land areas for the development of commercial or real estate objectives).

Peaceful, informal land acquisitions without evictions take place in the period and situation when the land owner is not allowed to sell the land through the effect of the law (Law 18/1991 forbade the sale of land areas for which the ownership right was constituted for a period of ten years), or when the land owner does not have all the documents attesting the land ownership right (the land is not registered in the Land Book yet). Despite this, many informal agreements appeared, or certified by semi-official documents, attesting the sale of land areas between private owners.

The disputes generated by the information asymmetry fall into the same category of land-related disputes. An eloquent example in this respect is related to urban planning. Certain persons have access to the information on the urban planning designs before these are completed and made available to the public. On the basis of this information they can buy, for example, certain land areas susceptible to be subject to expropriation for building up a motorway. The land is bought at low price, presuming that its value will significantly increase at the moment when the plans will be made public and thus they will get a significant profit after getting compensation for the expropriated land areas for public utility cause.

Building up Brasov-Bors motorway determines the increase of land prices in the county Cluj, according to BBC. ".....the minimum price for one square meter of land will be two euro, in Petru Gus's opinion, as representative of the firm that evaluated the land, who at the same time is a county counselor. This means that for one hectare of land, the compensations will reach 20 000 euro. Before starting the works for the motorway, the price of one hectare of agricultural land in the area ranged from 6 million (about 150 euro NA) to 12 million RON (about 300 euro NA).

Source: Jurnalul Național, 28/07/2004.

The speculators and real estate developers used this system in the case of motorways under construction in Romania and in the case of agricultural land in the vicinity of large cities, presuming that these will be included in the category of intravilan land with the design of urbanism plans of the metropolitan areas.

Evictions by land owners appear in the case when the buyer loses the full or partial land ownership right on the purchased land as a result of land claiming by a third person whose ownership right fully or partially excludes the buyer's right on the purchased good. This situation appears in the case of buying a land area that is the object of an unsettled land-related conflict.

Disputes over the payment for using/buying land most often appear in the case of land lease contracts whose price is a portion of the harvest. The owners often complain about the lessee's lack of transparency, who is accused of declaring low yields per hectare – due to different natural disasters or weather conditions – in order to decrease the amount they have to offer as compensation to owners for using their land. These disputes represented one of the causes why the land lease contracts ceased and/or they have not been renewed.

Disputes over the value of land most often appeared in the context of granting compensations for the land areas that were expropriated for public utility causes. The owners complain about the existence of significant differences between the value of compensations and the average price at which the land is sold in the area of motorways.

Another cause that generates land-related conflicts is linked to the local government capacities, *i.e.* the authority abuse from the part of local authorities' representatives responsible for land reform implementation and/or land administration system.

Illegal evictions by state officials acting without mandate on their own behalf represent one of the main category of land-related conflicts in Romania generated by the abusive actions of authority representatives. The officials use for their own benefit the prerogatives with which they have been invested to the detriment of the entitled persons. Thus, there are numerous cases when the members of the land commissions appropriated the most productive land to their close friends and relatives.

In Romania, the state has generally been able to conserve its authority at the local level. It has ascribed significant powers to local state officials who regularly abused these powers extorting bribes, charging illegal fees, and giving out the best land to their friends and allies in the process of land restitution

Source: Verdery, 2002.

Not only land restitution is the object of abuses from the part of authorities, but also the land administration system. The public opinion considers that the local officials act subjectively in the application of legal provisions, favoring a certain group of interests.

Out of this reason, the decisions of local land commissions are suspected of subjective and biased behavior. An eloquent example in this respect is “the transaction of litigious rights”. The purchase of litigious rights is regulated by the Civil Code. This is made only under the hypothesis that litigation exists over the ownership right. The small real estate publicity, the juridical debates forums have been and still are full of announcements with regard to the commercialization of litigious rights.

Many former owners prefer to sell three times with losses compared to the market price than to be at the hand of justice and institutions authorized with the real estate properties restitution (either land or buildings) as the legal procedures are difficult, costly and take a lot of time. Furthermore, the entitled persons' confidence in their own chance to get back their properties, even by legal ways in court, is quite low. The members of the groups of interests buy these litigious rights at very low prices, and on the basis of their influence and personal ties, they succeed in winning their case in court and obtain the ownership titles.

Due to numerous similar situations, the public confidence in the land administration system is low. The public opinion has more confidence in the central authorities, trying to address them for the solving up of different land-related conflicts that appeared at local level. Unfortunately, the great number of these disputes makes the activity of central authorities more difficult.

5. CONCLUSIONS

These types of state ownership-related conflicts are valid throughout the world, not only in Romania. Unfortunately, in our country they are generally mentioned by the mass-media and almost never by the official statistics; the main causes of this situation are the following: the low interest of authorities to keep an evidence of the conflicts and what is more important, the low number of conflicts that come to be considered statistical information (trials for which definite solutions were given, persons/institutions that are officially convicted). The lack of official information does not mean that these disputes and conflicts do not exist; it rather highlights once again the existence of a situation that encourages their occurrence.

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