

ANALYSIS OF THE LAND INVENTORY WORKS BY 165/2013 LAW FROM THE PERSPECTIVE OF INTRODUCING THE SISTEMATIC CADASTRE

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Abstract

In a context in which cadastral activity in Romania is limited mainly to the realization of the cadastral sporadic works, a chance of recovery comes from the sistematic cadastre works, which forms the basis for a new, modern, unitary and computerized cadastre, with a real estate advertising system based on the land register. The main objective of this paper is to analyze the database accomplished at the level of territorial administrative units in the context of 165/2013 Law regarding the land inventory, and use the information in order to implement the sistematic cadastre, eliminating some stages imposed by 1/2014 Law.

Key words: inventory, cadastre, property, restitution.

In a context in which Romania, for years, has been condemned to the European Court of Human Rights for breaching the right to private property, restitution legislation of the assets confiscated was radically modified by the 165/2013 Law on measures to complete the restitution in kind or equivalent of real estate abusively confiscated during the communist regime in Romania, published in Official Monitor no. 278/17.05.2013.

The long-debated 165/2013 Law regarding the measures to complete the restitution in kind or equivalent of real estate abusively confiscated during the communist regime in Romania was enforced in May 2013. This law has been expected for a long period of time and it appeared after several failures in enforcement, out of which we mention the well-known law project which attempted to limit the compensation value, withdrawn after the public opprobrium.

MATERIAL AND METHOD

In the context in which in Romania the cadastral and land registry activity is reduced mainly to sporadic cadastral works, the chance to relaunch it would be the sistematic cadastral activity which requires the accomplishment of a modern, unitary and computerized cadastre and land registry, using a system of land registration publicity based on the land register. The main objective of this paper is to analyse the data base made by the administrative units once the 165/2013 Law was enforced regarding

the inventory of the agricultural lands and to use the information for the implementation of the sistematic cadastre registration, leaving aside some stages imposed by 1/2014 Law.

Out of the specific objectives of this article we highlight the definition of a unitary workflow within the local committees for the inventory of the lands which have been called at the level of administrative and territorial divisions (ATD), according to the provisions of 165/2013 Law, in order to identify lands and find out their surface, in each ATD, on the categories of lands included in the inventory. At the same time, the aim is to eliminate some stages in the implementation of the sistematic cadastral survey, while using the database accomplished through the enforcement of 165/2013 Law.

For the accomplishment of the project's main objective there have been considered both the legal regulations, highlighting the most important laws which regulate the creation of the data base of properties as well as the compliance of the enforcement guidelines of 165/2013 Law. Hence, the project was presented following its three distinct stages: research and gathering the necessary information, making the topographic survey measurements and data-processing and creating the addenda according to the enforcement guidelines for Law no 165/2013.

The delineated study area is the village of Holboca, Iași county, situated in the south-east of the county with a surface of 5002 ha. This paper has been conceived so as to fulfil the specialist's tasks regarding the topographic measurements, as they are mentioned and derive from article 6 in Law no 165/2013 for Holboca ATD, and use information in order to implement sistematic cadastre, eliminating some steps imposed by the 1/2014 Law.

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RESULTS AND DISCUSSION

After the Revolution in 1989, the Land Law no 18/1991 amends part of the abuse on private property of agricultural and forest lands from the communist regime but it is only partially returning the property of former owners or their heirs by new property titles, up to only 10 ha out of the old agricultural estates and up to 1 ha out of the former forest estates. Nevertheless, the expropriation is approved without legal documents proving the surface difference (Novac, 2007).

Law no 169/1997 and 1/2000 Law for the restitution of agricultural and forest lands amend 18/1991 Law and give right to the restitution of agricultural lands up to 50 ha and forest lands up to 10 ha. The enforcement of 1/2000 Law opens a new stage of great efforts made by topography specialists in making the land measurements in order to give back the lands to the right owners.

The current state of private property is ordered by 247/2005 Law. Thus, all the private property lands are included in the general civil circuit. According to article 1, title X of 247/2005 Law, private property lands, regardless of their use and owner, they are and remain in the civil circuit; they can be estranged or acquired freely, abiding the legal provisions included in the same title of 247/2005 Law. This provision has practically led to the unified approach in the land circulation regim.

I. Presentation of the implementation stages for 165/2013 Law

The local committee for land inventory is formed according to the order of the prefect for each administrative unit. The responsibilities of the local committee members are established according to the specific tasks provided by the enforcement norms for 165/2013 Law. In what follows we present in detail the inventory process and the responsibilities of each member of Local Committee for Inventory.

a. the representative of the prefect's office calls the committee for meetings every time there is required, thus the inventory process should be accomplished within the terms established by Law no 165/2013.

b. the mayor of the administrative unit provides the logistics and necessary work facilities for the local committee.

c. The secretary of the administrative unit provides the addenda and the decisions made by the county committee on land funds regarding the validated areas, making clear which are the regions for which there have been issued property titles, ownership certificates.

d. The topography specialist is responsible for identifying the crop lands and other land parcels according to the existing cadastral map, to digitize the photogrammetric mapping, to show the limits of the fields in the inventory in a closed polyline, in the 1970 national stereographic system of recording in dxf format.

e. The cadastral office representative guides the local committee from the technical point of view and provides the following cartographic products in digital format.

In order to accomplish the targets, the measurement specialist undertakes three different stages: documentation and information retrieval, make the field measurements and process data and elaborate the addenda according to the requirements of 165/2013 Law.

1. Gather all the information on the lands which are object to inventory.

The necessary graphic data has been taken from the cadastral plan of Holboca village, drawn during 1987-1989 and finished in 1989, in a 1:10000 scale and from the photogrammetric mapping done in 2010, in a 1:5000 scale, plans of the forest lands in 1:20000 scale.

The data was given by the village secretary together with the local committee of land funds as well as by the authorities and public institutions which administer the lands of public or private property of the state.

1. 1. Inventory of the restituted lands

The measurement specialist will make an inventory of the land restituted in property titles or ownership certificates first in the cultivated land area, then in the cadastral district, based on the information provided by the administrative unit secretary and using the IT application for the property titles.

For the inventory of the restituted lands according to the property titles or ownership certificates, the measurement specialist will make the following analysis in the office:

- for each property title, he will fill in a table with the data for each area of cultivated land. In the observation column, the measurement specialist will make notes such as: invalid property title, mistakes made in the cadastral identification details, any other errors found in the IT application used for the property title, hence all these will be made known to the representative of the administrative unit in the local committee (for example any property title missing from the administrative unit office or errors in the IT application).

- for the property titles issued in the administrative unit under inventory but placed in another unit, the specialist will fill in a different

table, as a copy of this document and hand it in to the measurement specialist of that particular unit where the inventory of those lands will be undertaken.

1. 2. Inventory of the non-cultivated lands which cannot be restituted

The measurement specialist identifies and makes an inventory of the non-cultivated lands (river banks, roads, channels, railroads, so on) which cannot be restituted according to the updated inventories of the public and private goods in the unit, provided by the secretary as well as to the information given by the authorities and public institution regarding the non-cultivated lands which cannot be restituted but are administered (river banks, channels, railroads, so on) including the official papers proving the property/administration rights. In order to properly identify these lands, the authorities and public institutions have to send to the local committee all the information they have on the lands which are subject to inventory (article 8 in the Norms).

1. 3. The inventory of the cultivated lands from public or private property, with or without investment and administered by different authorities or public institutions

The State Domains Agency (DSA), according to the Norms, is obliged to provide the committee with all the dimensions and limits of the fields it administers, identified as closed polylines, according to the national system, in .dxf format, including the papers which prove the administration right.

Other authorities and public institutions (such as Forestry Office in Iasi, Iasi County Council, the National Company of Railroads) should provide all the information they have on the lands, cultivated, with or without investments in the public or private property, held under administration, including the papers which prove the right to administer or own them.

1. 4. The inventory of the cultivated lands in the private or public property of the state, with or without investments and administered by research institutes.

In Holboca village there is one research centre, namely the Research and Cattle Breeding Centre which has the obligation to provide the committee with all the information they have on the agricultural lands, with or without investment from the public and private property, under administration, including the papers to prove the property/administration right.

1. 5. Inventory of the forest lands owned by the state

Hence, the National Forest Service - Romsilva, according to the Norms, has to provide

to the committee a presentation of the forest lands owned by the state and found under their administration, highlighted on environment maps in 1:5000 or 1:10000 scale, as scans in .tif or .jpg format. For the forest lands which are not included in restitution, the National Forest Service - Romsilva will mention the surface and the legal grounds for being excepted. In a system of GIS mapping the information provided by the National Forest Service – Romsilva, the measurement specialist will identify and place the lands in their cadastral district.

1. 6. Inventory of the lands occupied by crops

The administrative unit secretary gives to the measurement specialist the situation of the cultivated lands in the village, mentioning the private or state ownership titles which might be subject to restitution.

1. 7. Identify and locate the lands in the inventory

The measurement specialist will identify and locate all the categories of lands previously inventoried, in their cadastral district, showing their position on the photogrammetric records, then these points will be correlated to the measurements they made during the stage of on site work in order to establish the borders of the cadastral districts and cultivated lands. For this purpose, the measurement specialist will make materials using the photogrammetric records, highlighting the lands according to the inventory categories.

For the lands in public or private ownership with investments, the measurement specialist will estimate the surface of the investment by going to the spot, during the stage of on site work.

2. Measurements during the on site work stage

In order to establish the borders of the lands under inventory, for each category mentioned by the law, there has been done on site work and measurements for all the elements present on the land: roads, railroads, channels, dams, so on.

The borders of the cadastral districts have been established according to the real situation. As initially the borders of the cadastral districts had been established by the National Centre for Geodesy and Cartography by vectorization, based on the photogrammetric records since 2005-2010, on a 1:5000 scale, the measurement specialist will establish these borders considering the real situation and proper measurements.

The measurement specialist will establish the borders of all the cultivated lands on site and will identify and correctly include the land parcel in the cadastral district. At the same time, he will identify by topographic means on site the necessary and sufficient elements (roads, railroads, channels, waters, forest edges, so on) required to

split the lands and correctly render in digital format, on the photogrammetric records, the borders of the lands inventoried during the first stage.

3. Make the addenda and the overall reports

The norms for the enforcement of o 165/2013 Law, include 9 addenda and overall reports which cover all the lands in the inventory, as follows: reserve of the local committee; agricultural lands within the administration unit, in public or private ownership, with or without investment and administered by public authorities and institutions; forest lands owned by the state; agricultural lands administered by research institutes and centres, with or without investment; pasture lands; other lands described as available for restitution; agricultural and forest lands which might be the object of property title restitution; agricultural lands, with or without investment, under the public or private ownership and administered by authorities, public institutions and research institutions or centres; the graphic addendum showing all the categories of lands mentioned in article 6, paragraph 2, 165/2013 Law.

Using all this data there have been conceived the addenda mentioned in the Norms for the enforcement of 165/2013 Law. The tables were conceived in collaboration with the specialized staff from Holboca village hall and the graphic addendum was conceived by processing the descriptive data on the photogrammetric records. The final results were presented to the Local Inventory Committee, at the same time presenting in details the methods used and the project results.

II. Presentation of the implementation stages for the sistematic cadastral registration and survey

The accomplishment of the sistematic cadastral registration regards all the property owners in an administrative and territorial unit. This fact entails their real participation in the activities undertaken outdoors and during the stage of result editing and publication.

The programme enforced by article 9, line 11 of 7/1996 Law, the law of cadastre and real-estate publicity has the following objectives: conceive cadastral documentation for the sistematic registration of properties, free of charge, in the integrated cadastral mapping and land registry system, public notaries issuing the certificates for the registration of the owners in the sistematic recording, public notaries issuing the inheritance certificates, in case of unfinished inheritance procedures within the sistematic registration. The organization responsible for the implementation of the programme is the National

Agency for Cadastre and Land Registration (NACLR) while for the implementation of the programme there will be organized departments of sistematic registration in NACLR and CREPO (Cadastre and Real Estate Publicity Office) – 600 people estimated.

The sistematic cadastre registration programme which should be enforced starting with 11th of May in the whole country will be implemented by 2023 and it supposes the free-of-charge registration of all properties (lands and buildings, including flats) with the final aim of enforcing the real estate registers in the integrated system of cadastral survey and registering. For 2015 there are planned activities in administrative and territorial divisions throughout the country, organized on three levels:

1. Works organized on large groups. There have been drawn out 10 groups which include 147 administrative and territorial divisions in all, covering a total surface of 853.458 ha, including 41 counties and having an estimated budget of 159 million lei including VAT, and a specified performance time of 4 years.

2. Works organized on small groups: there will be drawn out groups to cover one administrative and territorial division in a maximum of 3 parcels, performance time of 1 year.

3. Co-financing the local authorities (proposal in 7/1996 Law) with a budget of 60 lei/property registered in the land registry, to be accomplished in cadastre divisions.

The purpose of the sistematic cadastral survey is to register all the properties in an ATD in the integrated system of cadastre and land registry by identifying, measuring, describing and recording the properties in the cadastral technical documents (cadastral register, alphabetical list of owners, cadastral map), identifying the owners of all types of properties and recording them in the cadastral documents, checking the the results in public listing and correcting the errors at the request of the owners, starting the land registers and closing the old registers.

The main stages of the sistematic cadastral survey are the following:

1. Plan and launch the advertising campaign

The main objective of the advertising campaign is to inform the public about the benefits of the cadastral works. The running of the advertising campaign will be checked by representatives of the ATD and there will also be undertaken the following:

- a) an analysis of the current situation at the level of the ATD as regards the area characteristics in terms of informing demands;

b) implement the public information campaign in the area.

The public information campaign will be run in two stages. The first stage will take place during the development of the works in the cadastral field and the second stage during the period of preparation of the technical documentation and then publishing them.

2. The accomplishment of the works prior to the systematic cadastral survey

There will be called the members of the teams and the number of teams to work outdoors, depending on the complexity of the task and the number of properties, in order to accomplish the work by the established deadline. The tasks to be undertaken are the following:

a) study the analogic and digital data taken from the Cadastre and Real Estate Publicity Office (CREPO). This operation supposes the analysis of the analogic and digital information taken from CREPO according to the collaboration protocol (orthophotos, deliniation and placement maps, parcel maps, database with the property titles and so on).

b) study the land. During this operation there will be undertaken the following activities: identify the relief, identify the areas which require topographic surveys, spot the geodetic network points as well as mention their state.

3. Undertake the cadastral work

This stage includes the following operations:

- a) determine the cadastral divisions;
- b) create the interview booklet;
- c) determine the limits of strip grounds;
- d) determine the limits of the properties;

4. Reception of the technical documentation for the systematic cadastral survey

All the folders created after the systematic cadastral works will be delivered in two copies, according to the laws in force. The reception of the cadastral documentation requires a check in the quantity as well as the quality. There will be called a committee from the CREPO so as to check the compliance with the technical specifications mentioned in the contract. The activities, the deliveries and reception will follow a schedule.

5. Publication of the technical documentation or the systematic cadastral works

During this stage, CREPO together with the city hall manage the publication of the technical documentation. The editing of the documents will be surveyed by CREPO, at the city or village hall in charge of the administrative and territorial divisions. According to the provisions of article 11² from the Law of cadastre and Real Estate Publicity, Law no 7/1996, republished with

subsequent changes, the period of public display is 30 days.

Within a deadline of 30 days from the display, the holders of tasks from the transcription registers are to require a new registration. CREPO will decide upon the date of the publication of the technical documentation and it will send a written note informing the NACLR, the service provider and the city/village hall.

The cadastral technical documentation filled in at the administrative and territorial division includes:

- a) cadastral register of properties;
- b) alphabetical list of owners;
- c) cadastral map.

6. Receiving and solving the correction requests

The request for the correction of the information included in the published technical documentation can be submitted in 30 days from the public display date, it should be written and accompanied by the documents proving the mismatch.

The correction requests are received, registered and solved by the committee assigned to be responsible for these type of requests. The committee members appointed to solve the correction requests are employees of CREPO and will be officially appointed by the manager. The committee will include at least one specialist in cadastre and one specialist in land register works.

7. Update of the technical documentation for the systematic cadastral works

The service provider will update the cadastral technical documentation according to the reports issued after the correction requests had been solved. Starting from the updated data, the service provider will create and submit to CREPO the final technical documents in analogic and digital format.

8. Inaugurate the land registers

OCPI inaugurates the land registers based on the final form of the cadastral technical documentation to which there will be attached the interview booklets and the other related documents.

After the set off of the new land registers, the people involved are sent, according to the lists in the land registers, by the administrative office the following: real estate register report and real estate register excerpt, cadastral map excerpt.

9. Finishing the technical works for the systematic cadastre registration and survey

Starting with the date of the inauguration of the land registers, the transcription registers and any other registers of cadastre or real estate advertising will be replaced, in each administrative

division, by the new cadastral map and real estate register. The old documents are to be kept in the administrative office and can be consulted for recovery and processing activities.

The current stage in the implementation of the systematic cadastre registration is the following: in towns, out of 320 towns and municipalities, 7 municipalities undertake works financed by the local budgets; in the countryside, out of 2861 villages: 7 villages completed works with 70.000 registered properties (in the counties of Călărași, Olt, Teleorman, Mureș, Galați), 53 villages with work in progress, out of which 44 use funds from the state budget (CESAR) and 9 villages undertake work financed from the local budget.

III. The use of the database accomplished for Law no 165/2013 within the works of systematic cadastre works and survey

The creation of a database of the properties in an administrative division is a very complex project which contributes to the improvement of the following aspects:

- facilitate the legal property transactions in real estate market and guarantee the right of ownership;
- improve the registration system of properties and quicken the operations;
- eliminate some stages in the systematic cadastral registration, thus making this activity more efficient.

The large volume of information included in the maps and documents held by the public administration units, the perishable analogic format for storing this information, the difficult handling, the great employment expenses required for the accomplishment of topographic and cadastral maps, other reports and statistics, the difficulty in interpreting and analysing them, if they are not clear enough, all of the above led to the gathering of important financial resources on national level in order to accomplish the cadastral applications. These results can also constitute a highly important database for the informational system of the public administration office, as well as for the systematic cadastral registration and survey.

Thus, by enforcing Law no 165/2013 and by creating a database for the administrative division under study, there could be eliminated the first 3 stages of the systematic cadastral registration and survey, stages which require a great volume of work and by eliminating these, there are also saved a lot of time, money and less staff involved.

Consequently, as a result of the implemented works required by 165/2013 Law, there was created a database with all the properties in an administrative division, including the cadastral

map created according to the legal provisions in force, as well as the related database with the technical and legal information on the properties.

Mention should be made that the accomplishment of the database according to 165/2013 Law which should meet the demands of the systematic cadastral registration required the completion of certain stages which were different from the ones in the enforcement guidelines. At the same time, the graphic and written texts were mainly those required by the systematic cadastral registration, the information being gathered from the institutions in the field, as well as from the interview booklets.

We could state that 165/2013 Law can be a real and sufficient basis for the accomplishment of the systematic cadastral works and survey and its implementation should be accelerated in our country.

CONCLUSIONS

Considering all the facts mentioned above we could conclude that this paper cannot be regarded as a cadastral plan, as defined by the regulations in force, but rather as a database which could be correctly used so as to act as a useful tool for the accomplishment of the systematic cadastral registration and survey.

The general aim of this article contributes to the development of a field which is currently on the border of the scientific and technical knowledge, but one of the priority fields on national and international level.

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