

Chapter 55

Imbalances in the Cadastre and Land Book: Impediment to the Economic Development of Agriculture and Rural Area Overall

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ABSTRACT

The present paper aims to highlight the Romanian necessity to eliminate the imbalances from cadastre and land book. For this purpose are identified the main causes that determined the current factual situation and at the same time there are elaborated a set of solutions in order to correct those imbalances. Furthermore the paper aims to anticipate the beneficial effects that these solution have on the agriculture and rural development. The research methods utilized in this paper consist in documentary synthesis and analysis of specialized paper works and studies from France and United Kingdom and the Romanian legislation in force in the field.

INTRODUCTION

The cadastre and land book have a particular importance which derives from the fact that through them, it can be held a recording and monitoring, both of land and estates which are built on those lands. The both organizing of the cadastre and land book allows avoiding some problems from legal framework regarding the property but also helps to facilitate the land exploitation. Strictly referring to agricultural land, permanent knowledge of the land property but also of its exploitation may lead to the improvement of the obtained results. Moreover may help to consolidate the land evaluation system if it were to be considered the concept of land rent present in the French agricultural model ever since the 18th century which includes natural rent (the intrinsic characteristic of the soil), position rent (the real positioning of the land, for example related to the access roads and water sources) and behaviourist rent.

At the same time the elimination of the existing imbalances regarding the cadastre and land book has a direct impact on the land market through facilitating carried transactions. A consolidated land market

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helps to accelerate agriculture development by supporting the increase of the agricultural holding's physical size and its economic size.

A consolidate cadastre also has implication on the tax system, making easier to calculate and to establish the taxes for land or estates, but this is not its only purpose. The main purpose remains the one of monitoring and management of the land and estates. In his paperwork about cadastre in modern Europe and English absence, Mireille Touzery states that "a cadastre is not only a fiscal instrument it's a description of the entire society"¹.

But to this purpose there are presented as subject of debate two Member States within the European Union: France and the United Kingdom. Both are developed states with consolidate land and real-estate market, the difference between them is given by the fact that while France has a very well defined, delimited and structured cadastre², United Kingdom has no cadastre. Richard Grover mentioned in his work describing the functioning of United Kingdom land and estate property and the absence of a cadastre and its effects, "Why the United Kingdom does not have a cadastre – and does it matter?" that "The UK does not have a cadastre which makes it unusual amongst major economies. Cadastres are often seen as being one of the pillars of modern land administration systems alongside efficient land registration, property valuation, real estate taxation, and land use, management systems."³

The functioning and the model of the UK is explained by Adam Smith in 1776 in his work "La richesse des nation" where he speaks about the tax system regarding the land and estate "a territorial tax established by a study and a general evaluation, some equal they may be in the first sitting, must necessarily in a time space little considerable, became unequal. In order to prevent this inequality it must exist from the part of Government a hard and continuous attention".⁴

The explanations in this regard can be found in the historical evolution of the two states. Following and monitoring the property in the United Kingdom is easier to conduct due to the fact that ever since the feudalism appeared the primogeniture concept which later was going to be part of the "Great Britain customary law"⁵. This clearly specifies that the possession of property by inheritance goes to the first male born in the family and where there are no males born it is transferred in equal parts to the daughters.

In France the situation is presented at an opposite pole, existing in the history of France the notion of Napoleonien cadastre or ancient cadastre which was constituted beginning with the year 1808. The experience regarding the administration of the territory in France is reflected nowadays in a performant cadastre plan available on-line. But this was not a fluid achievement because in France there were also problems regarding the cadastre. "While in France, the course of cadastre history is the one of learning the enforcement of the State face to contrary wills of the ultra conservators but also of the owners population, at the opposite pole the UK rejects the equipment with such instrument that Adam Smith considered more harmful than useful for the taxpayers."⁶

Romania may only function on the French model, the one in which exist a clear evidence of the land due to the increased number of land owners.

PROBLEMS RELATED TO CADASTRE AND LAND BOOK IN ROMANIA AND THEIR EFFECTS ON THE AGRICULTURE AND RURAL AREAS

The law No. 7/1996 republished in 2013 called Law of cadastre and real estate publicity in Title I - General rules of cadastre and real estate publicity, Chapter I General disposal, art. 2 defines the cadastre and land book as follows: "the cadastre and land book form a unitary and compulsory system of technical,

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