

## SPORADIC CADASTRE, SYSTEMATIC CADASTRE

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### **Abstract**

*Cadastr* is a system of registering land properties based on a cadastral plan, ownership documents and a fair tax system. To achieve general *cadastre* is a desideratum even since 1991, starting with the Law 18, regarding the retrocession of the farm land. When Law 7/1996 was released the achieving of *cadastre* was taken into account also. The cadastral registration has 2 types now: *sporadic* and *systematic*. There are similarities and differences related to technical procedures and legal documents registration between the two types .

**Keywords** : *cadastral sector, owner, parcel, parcel limit.*

### **INTRODUCTION**

The *cadastre* permanently raised particular interest from the government as its objective is the correct system property and tax records. A professional achieved *cadastre* should not have even one square meter without an owner. In this way, double taxation on land or occupation of land without a real property right could be avoided. Modern *cadastre* has been achieved for the first time by Austrian Empire, in the northern Italy, during XVIth century. It has been extended and ended to other provinces of the Empire later. Because at that time there was no official reference ellipsoid, the *cadastre* was repeated several times, each time improving surface quality determination. In time, the tools also evolved so that the measurements became more precise. The german type *cadastre* is based on a cadastral plan having all parcels highlighted.

Each parcel has attached a topographical number, unique on an administrative territory. Besides the cadastral plan, for each parcel there are documents proving ownership. Thus, there is a direct connection between the cadastral plan and the ownership documents records. This *cadastre* is usually called The *Cadastre Registry* system. Each owner, at the moment of registration in „The *Cadastre Registry*” obtains a proof of registration. He/ She can also request a land book extract proving ownership which could help him/ her in various occasions. A

*cadastre* system was also inserted in other countries but in a different way. For example, French system is based on the transcriptions - inscriptions registry which does not localise the land very precise. There are highlighted only some identification elements: name of the place where it lays, the owner, the neighbours, etc. This system is weaker and allows multiple trades of the land more easily. As there is not a plan to annex the property act, confusions and malevolence could appear. It is very easily to show someone a land you pretend to trade and this is placed elsewhere actually. Such acts have occurred in Southern Romania after 1990, quite often. It was purchased land in an area where land is actually another area. A land was bought in the area, when in fact the land was situated in another area (Paunescu C.et al., 2012).

In Romania there were both ways of property registration: Austrian type and French type. Austrian type has been implemented in areas occupied by the Empire, respectively Banat, Ardeal and Bucovina. In the rest of the territory there was French type registration.

### **MATERIALS AND METHODS**

As it is known from history, lands, especially farm land, have been owned by important land owner or by the church. Alexandru Ioan Cuza has done the first farm land reform and gives land to peasants. In 1920 the peasants participating in war have been allotted. The

major reform has been done in 1946 when farm lands were given to the peasants.

Whereas the agricultural production did not correspond to the area allotted to agriculture and to what Soviet Union imposed, IAS (State Farm Institute) and CAP (Agricultural Production Cooperative) have been created. Each land owner has been forced to enter the land owned in a CAP. From this moment the property registering system has been destroyed. Only the land in built-up area of private owners has remained certain, the land that is part of outside built-up area belongs to a single owner. In Ardeal, The Cadastre Registry of Austrian type has been maintained till the collectivisation.(CESAR Project).

After that the cadastre registries were not updated (no modifications were operated). The registration has been preserved in the city, and there to malfunction. For example, houses and multi-dwelling units were built on a large built-up area land. The land has been split, but not

very accurate, so real position to a topographical number we're not known very well. Taking into account facts presented above, the issue of land restitution to former owners has been acutely discussed in 1990. Of course, there was very difficult to position exactly, especially on plain area, where natural details do not exist. Hence, a lot of confusions were created. Also, measurements were made with a compass of 2 meters opening (capra), which resulted in large errors. The plans were worked on scale 1:5000. It must be taken into account that the parcel widths were small, thus, hard to represent them on this scale. Another problem was represented by official's ambiguity which changed the surfaces to be given back during the law application. Thus, they started with 10 hectares for each owner, than changed to 50 hectares and in the end they gave back the entire surface. From here there were titles, returned surfaces overlapping, etc.

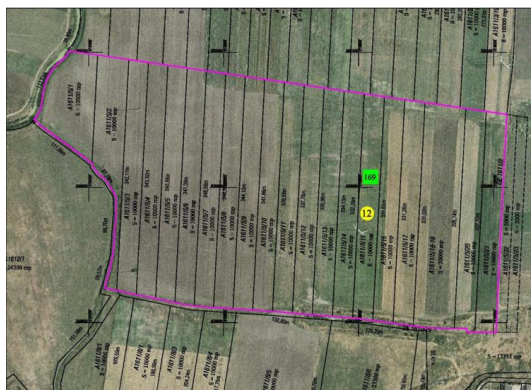


Figure 1. Added distances measured using compass are not equivalent to the perimeter

Distances measured with compass were never correctly reduced to horizon, to Stereographic plan 1970. In this way, added distances of the ends parcels never equal the perimeter of the „field”. The employees that applied property laws did not have required qualifications. Even though in some localities specialists were employed, they had to work under pressure and demands expressed by the Mayor and

Commission for the implementation of property laws. Moreover, the laws of property have not been completed in any city because of these technical and legal issues. Besides, political factor interfered. The commissions for the implementation of property laws have worked in their favour, meaning that they have returned the land themselves first, sometimes the best locations, giving the others what was left.

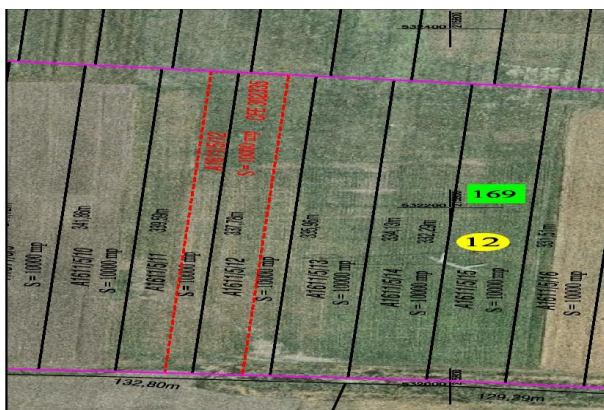


Figure 2. Faulty positioning of some parcels in plains

Each Mayor, as head of the commission for the implementation of property laws tried to solve his personal and his family issues, then, if time permitted, those of citizens. Newly elected mayors came up with the idea to solve their own and those of their families land related issues. Thus, they cancelled old parcel plans and ordered new one, modifying titles, property acts. From these reasons each locality situation is very difficult regarding the cadastral plan. Meanwhile the National Agency for Cadastre and Land Registration (N.A.C.L.R.) started first projects related to general cadastre, as it was named in the law. In Romania the cadastre was legalised by Law 7/2006, which stated

achieving general cadastre in Romania. Only in 1999, July has been applied this in practice but applied to the specific Romanian situation. Thus, in areas where Cadastral Registry did not exist, offices affiliated to law courts were opened for registering properties. Though, it was not made a unitary cadastre on a territory, but a sporadically registration, piece by piece. The pieces are not next to each other, they are somewhere inside administrative territory. Even more, it was allowed to make this cadastre in local coordinate system. Parcel placing was not connected to anything in reality, especially in the plains, where there are not natural or artificial landmarks.

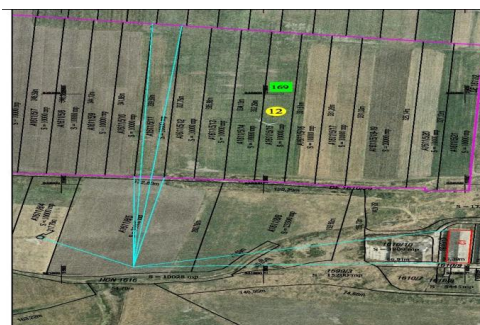


Figure 3. Positioning in local system with correct localisation in plan

Determination of parcels position became mandatory in Stereographic coordinate system 1970 and it has been created a database with all registered parcels on each administrative NACLRL started a project of achieving systematic cadastre on administrative territory.

territory since 2007. NACLRL took over Cadastral Registry, where cadastral files had to be submitted, shortening and improving the way of property registering. Thus, a group of 19 localities was bided and followed by another group of 31 localities.

## RESULTS AND DISCUSSIONS

To achieve systematic cadastre assumes collaboration of four entities: N.A.C.L.R., Office of Cadastre and Land Registration (O.C.L.R.), City Hall, and contractor. Theoretically, it should be only three entities as N.A.C.L.R. and O.C.L.R. have the same interests (O.C.L.R. is subordinate to N.A.C.L.R.), but many times they have totally different opinions. The contract is signed only between two of the four entities, so two of them have no contractual liabilities and cannot be held responsible. There are also a lot of data to be collected from municipalities and to collaborate with municipalities depends on the pleasure of the Mayor and officials at City Hall. There are no penalties for City Hall's delays in order to accomplish the cadastral plan or collaboration to collection of ownership documents. Many times O.C.L.R. has a different opinion regarding the achieving the parcel plan, type of ownership documents, etc. For these reasons the contractor is forced to compromise to finish the job.

We further present several issues encountered during achieving systematic cadastre in the following localities: Saschiz (Mures County), Moara (Suceava County) and Arad (Arad County).

Thus, we will present a situation where although a land owner exists it was registered as unknown owner. The current owner bought the land from the previous owner. This person had an inheritance document from his parents and the termination of the joint tenancy with the other heirs. The current owner presented as proof of property the following documents: a legalised copy of the purchase agreement, certificate of inheritance, former owner's termination of joint tenancy (legalised copy) and simple copy of title of property of the former owner's parents. The Registrar from the Cadastral Registry refused to register the land on the name of current owner due to missing title of property of former owner's parents in original form or legalised copy. For this reason on that particular parcel we had to register it as unknown owner. Of course the owner made appeal, but the appeal was dismissed on same grounds. It should be noted that the title of

property is original in the archives of O.C.L.R. and it could have been verified by them immediately.

The major issue is represented by titles of property which have different kind of errors. The most difficult errors are those related to areas and identification of parcels and field. Thus, the title is issued for the land situated in one place but the owner has it in another place. Also there is another owner where the title was issued.

## CONCLUSION

It should be welcome the N.A.C.L.R. initiative to start achieving the systematic cadastre at Administrative Units for the first localities and steps they take to realise this work across the territory of Romania. Development projects with European funding infrastructure projects are basically held in place by lack of tabulation, the unknown real owners. Property titles are just some informative records. Meanwhile things have evolved: land was sold based on handmade purchase agreement, position of parcels have been changed through mutual agreement, owners died, etc. All these changes are updated and registered in the Cadastral Registry. One more aspect must be mentioned, the payment of agricultural subsidies. As specified above, the position of parcels has been changed.

When payments are checked, they are checked after property titles not the place where they work the land. For this reason, a farmer declares a certain crop but during verification something else is found to be cultivated.

Conclusion: systematic cadastre should continue for entire country.

## ACKNOWLEDGEMENTS

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