

Compossessorates in Transylvania (Romania)

Subjects: Social Issues

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The compossessorates in Transylvania (Romania) are traditional varieties of commons. The compossessorates are family associations that jointly own an indivisible piece of land. The rights of each family within the association are inherited and depend on the size of the contribution made by their predecessors to the establishment of the association. During the inter-war period two types of compossessorates were most common in Transylvania: those of the former boyars and the ones owned by the former serfs. An analysis of the 1904 Austro-Hungarian Regulation on the organization and management of the commons, of the 1910 Romanian Forest Code that was implemented in Transylvania after 1918, and of the by-laws of compossessorates, derived from the aforementioned documents, unveils the concern of both legislators and members of compossessorates for the preservation, balanced exploitation and regeneration of the forest fund and their focus on sustainable management of forests. The compossessorates were disbanded upon the instauration of the communist regime in Romania and re-established after 1989. Nowadays, compossessorates continue the local tradition of sustainably managing the forests and the pastures.

Keywords: commons ; sustainable management ; forest ; compossessorates

1. Introduction

There are various types of social units that give consistency to the Romanian rural world through their thoughtful economical approach, their prestige and their power to legally enforce the customary practices that support them, especially in the area of the Inner Carpathians. Prominent examples in this respect are compossessorates as local forms of commons. The compossessorates are family associations that jointly own an indivisible piece of land. The rights of each family within the association are inherited and depend on the size of the contribution made by their predecessors to the establishment of the association. The oldest compossessorates belonged to the boyars and emerged during the Middle Ages. At that time villages were pretty self-sufficient and ruled by local customs that also gave rise to law. The newest compossessorates, of former serfs, were established in the second half of the 19th century after the abolition of serfdom. Consequently, the former serfs who had leased the forests ^[1] became their rightful owners and managed them as common goods under the control of authorities.

At the turn of the 20th century villages became better integrated in state political organization, gradually lost their primary function as creators of law and increasingly became consumers of law ^[2]. As a result, normative acts in the forestry field regulated the running of compossessorates. Based on those acts, the compossessorates subsequently established their specific by-laws. Both the Medieval rules originating from local customs and the by-laws that legally regulated the forest regime of the compossessorates can be viewed as sustainability oriented since they functioned as instruments to preserve the forest.

After World War II and following the establishment of the communist regime, the compossessorates were disbanded and the state became the owner of their land, as well as of all the other natural resources. The fall of communism 40 years later and the passing of several laws meant to re-instate the right to private property supported the re-establishment of these forms of commons.

The Olt Land (Romania), also known as the Făgăraş Land, the historical administrative name of the territory, lies in the south of Transylvania, between the Olt River and the Southern Carpathians. In terms of ethnographic features, the area bordering the Olt River can be extended up to the watershed ^[3] to include several villages lying on the opposite shore of the river, which belong to communes from Făgăraş Land from an administrative perspective. The Olt Land is one of the historical and ethnographic areas acknowledged for having preserved certain old community practices and traditions. Its rural communities are the keepers and bearers of principles and values that can be considered true identity marks.

2. The Romanian Commons

The commons are collective arrangements made in order to manage resources for the benefit of community members ^[4]. At the same time, they are lands that a community owns and uses collectively according to its own rules ^[5]. The functioning of the commons contradicts Hardin's theory on the "tragedy of the commons", whereas it supports Elinor Ostrom's opinion ^[6] on the possibility of efficiently, equitably and non-destructively managing common property provided that there are enough strong and respected rules ^{[7][8]}.

In contemporary Romania, the ownership of the forest can be individual, state, communal (a collective forest owned by an administrative territorial unit (ATU), called "*comuna*" in Romanian) or associative ^[9]. The *obști* (Romanian for "communes") and compossessorates, as traditional forms of commons, are associative structures. An *obște* is an association of family households that own land in common. The rights of the community over the land are prior and superior to those of the households in its composition ^{[10][11]}. The *obști* can be equalitarian or non-equalitarian depending on whether the numbers of shares their members own are equal or different. They are located in Wallachia and Moldova. The compossessorates are similar to non-equalitarian communes and are located in Transylvania ^{[9][12][13][14]}.

In equalitarian *obști*, rights are associated with an active household and not with individual members. They are granted upon joining the *obște* and lost when leaving it ^[15]. In non-equalitarian commons the rights are granted only to the heirs of those who have participated in establishing the associative structure ^[16]. In all commons the property is indivisible and the members cannot precisely locate their shares or sell them to non-members ^{[13][17]}. The commons have their own legally registered by-laws.

The Romanian commons can be considered social economy organizations (Petrescu and Stănilă, 2013; Opincaru, 2017; 2021) ^{[14][16][17]}. However, such a taxonomy is not fully justified since, as Nyssens and Petrella ^[18] have shown, the commons pursue the interests of a defined group, while social economy organizations serve the general interest of society as a whole. The Romanian commons are considered non-profit organizations from a legal standpoint. However, this classification is also partially inadequate, since a part of the profit made by the commons is distributed to their members ^{[12][19]}.

The rights of forest and pasture owners in Romania, especially in the mountainous areas, come from rights of first settlement in unclaimed territories, peasants' redemption of land from landlords or monasteries, kings' or voivodes' donations made in the Middle Ages to vassals and knights, rewards to border guards (Vameșu, Barna and Opincaru, 2018; Opincaru, 2017; Vasile, 2019a) ^{[8][14][19]}, and from the granting of land ownership during the abolition of serfdom after 1848 ^[14].

After the communist regime came to power in Romania, the commons' forests were nationalized and the state began their exploitation. In many cases the former owners became employees in forest enterprises. The commons' pastures went under the management of socialist enterprises or cooperatives ^[8]. After 1989 the process of decollectivisation ^[20] started in the former communist countries and the old forms of property ownership were re-instated. In Romania, as a result of the laws passed successively between 1991 and 2005, the forests and pastures were returned to former owners or their descendants. It is worth mentioning L1/2000, which allows properties to be returned to legal entities, like the commons, as well as L400/2002, banning the selling of land that is under common ownership ^[12]. As of 2008, the right of commons (as legal entities) to land ownership has been acknowledged through the Forest Code ^[8].

The literature on the commons in Romania mostly focuses on socio-economic, historical and local aspects ^{[14][19]}, such as the process of returning them to former owners, inherited features, regional characteristics and case studies. However, the commons' salient feature is their focus on long-term preservation of resources ^[21] and this needs to be better highlighted in the case of the Romanian commons.

Some studies show but do not underline the sustainable nature of contemporary Romanian commons. Thus, the interdiction on selling commons' land to outsiders preserves ancestral ownership rights, prevents land speculation and is an efficient means to maintain the relationship of the community with the environment ^[22]. Vameșu, Barna and Opincaru ^[19] believe that in Romania the commons seem to ensure a sustainable and responsible management of common resources. Moreover, they consider that the organizational structure of the commons guarantees the effectiveness of the rules even under economic pressure, whereas the long-term relationships among community members encourage the formulation of sustainable self-governance rules. The capacity of contemporary commons to economically, ecologically and socially support local sustainable development lies in the long tradition of these associative structures.

The interest in sustainable development is not a novelty. It can be found, albeit not under the same name, in the documents of the Romanian commons dating back to before communist times.

3. Conclusions

The compossessorates in the Olt Land, built on customary law and on historically developed legal provisions, are sustainable associative structures. Their power to endure and the power of the customary law underpinning them has consolidated the historically determined regulations and thus yielded a local legal system referring to the compossessorates. The latter are traditional forms of property. Their lands were meant from the beginning (i.e., since the Middle Ages in the case of the former boyars' compossessorates and after the abolition of serfdom in 1848 for those of the former serfs) to be used for a long time. Their by-laws, dating back to the first half of the 20th century, include provisions on the wise management of forests and recommend collaboration with specialists in the field of forestry. The organizational structure of the compossessorates generates interdependencies among the actors involved, who support the sustainable use of resources. The authorization of forest exploitation is conditioned by the undertaking of activities like reforestation or the establishment of nurseries with valuable species. Compossessorates as property are perpetually impartible. The distribution of property rights is a dynamic process, but property shares can only be sold to members. Such a provision, which is even nowadays included in the statutes of current compossessorates, guards their forests against the interests of large forest exploitation companies by keeping them off the market. The compossessorates that were re-established after the fall of communism have a symbolic significance: they represent a triumph against injustice and are a source of community prestige and identity consolidation. They bring benefits to the communities and support local development initiatives. Among all agricultural associations, compossessorates are the most efficient, economically speaking. As previously mentioned, the number of illegal cuttings is the lowest in the forests of the compossessorates in Romania.

Thus, the compossessorates in the Făgăraș area prove useful for the forestry field in Romania. They continue a long tradition of sustainable exploitation of forests and pastures. Hardin (1968) considered that individuals who cannot be excluded from using common resources at equal costs will try to take advantage of them by trying to maximize their benefits. The operation of compossessorates counters such an argument, supporting Elinor Ostrom's (2007) view that local communities can efficiently and constructively manage their goods.

The existence of compossessorates should be supported. Their functioning should be optimized. This is an area where NGOs taking an interest in environment protection and sustainability can initiate constructive activities. Their involvement requires the acknowledgment of the sustainability potential of compossessorates, which is exactly what we have tried to highlight in this article.

Commons, as a sustainable form of forest and pasture management, is not an option that is only limited to Romania. We believe that the commons are a sustainable solution worth considering wherever there is a tradition in this respect and wherever they can work under efficient conditions.

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