

Transparency in Albanian and Romanian Land Administration¹

J. Stahl, T. Sikor and S. Dorondel

Johannes Stahl, Ciriacy-Wantrup Postdoctoral Fellow, University of California at Berkeley
Thomas Sikor, School of Development Studies, University of East Anglia
Stefan Dorondel, Institute of Anthropology, Bucharest

Abstract:

Land administration is believed to be of great significance in the formalization of land tenure, the development of land markets, and the resolution of land disputes. In Central and Eastern European countries the effectiveness of land administration in practice is often constrained by corruption and other governance problems. Drawing on the results of a pilot project on the operation of local land administration systems in Albania and Romania, we identify significant incidences of corruption and recommend that governments need to increase the transparency and accountability of land administration by involving third parties, such as non-governmental organizations (NGOs). NGOs can support rural people locally in gaining access to public information, using complaint systems and resolving land disputes. They can also inform national policy-makers by bringing in actual experience from the ground.

INTRODUCTION

Over the past decade and a half, much attention by policy-makers in Central and Eastern Europe has focused on the privatization of agricultural land. National debates discussed the pros and cons of alternative policy choices, the procedures guiding the privatization of collective and state land, and the institutions in charge of policy implementation at the local level. Local people, in turn, were busy securing a share of the agricultural land for themselves and getting their claims on particular land parcels recognized. This focus on land privatization originated from the high political significance attributed to the return of the land to ‘the people’ in the move away from socialism.

As privatization is coming to a close, policy-makers and people are shifting their attention to second-generation issues in land policy. One issue – land administration – is the concern of

¹ A French version of this paper is forthcoming in the next issue of Cahiers Options Méditerranéennes entitled "La question foncière dans les Balkans".

this paper. Policy-makers and people recognize the need for effective land administration in order to put the new land rights into practice. Policy-makers are becoming concerned with land administration as a precondition for land markets, land taxation, land use planning, and spatial planning. Rural people expect land administration to issue titles to their land, facilitate land sales and rentals, allow the use of land as collateral, and help resolve land disputes. The land reform agenda, therefore, is far from complete.

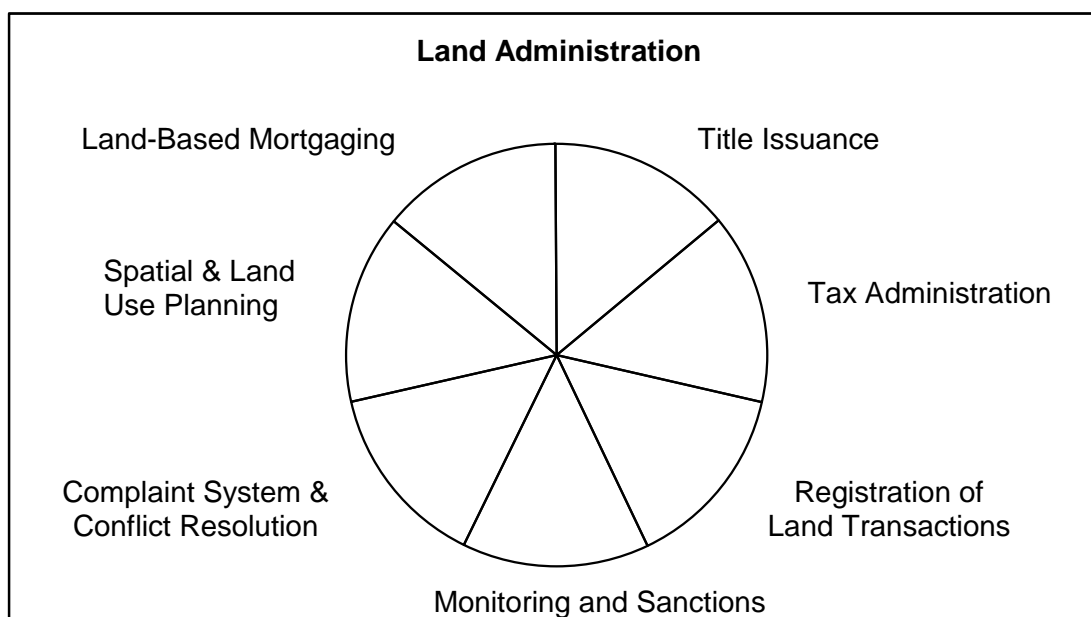


FIGURE 1

Functions of land administration

In this paper, we look at the operation of land administration in practice. For this purpose, we employ a broad definition of the tasks land administration has to fulfill (see Figure 1). Land administration is expected to serve the following functions:

- issue land titles
- serve land taxation
- register land transactions (sales and rentals)
- monitor and sanction changes in land use
- resolve land disputes and handle complaints
- facilitate spatial and land use planning
- allow land-based mortgaging

The results presented in this paper indicate that land administration in Central and Eastern Europe may not meet these expectations. Despite existing laws and regulations, land administration may not fulfill many of its assigned functions in practice. These insights stem from a pilot project assessing local land administration systems in Albania and Romania. The project, implemented by Humboldt University, Berlin in cooperation with the Albanian Citizens' Advocacy Office (CAO) and the University of Bucharest, had the goal to examine the actual operation of land administration systems in the two countries and develop practical recommendations for their improvement. In particular, the project sought to identify opportunities for non-governmental organizations to help improve the functioning of land administration and develop a suitable tool for their use.

LAND REFORMS, LAND ADMINISTRATION AND LOCAL GOVERNMENT IN ALBANIA AND ROMANIA

Albania and Romania lie at opposite ends of the range of land reform policies in Central and Eastern Europe (Swinnen 1997). In Albania virtually all farmland was distributed to the rural population after the dissolution of the agricultural collectives and state farms (Cungu and Swinnen 1999). As specified in the 'Law Concerning the Land' from 1991, the distribution of all collective farm land was done on an equal per capita basis. The land previously managed by state farms was transferred to their workers and private businesses. As a result, virtually all agricultural land in Albania is under individual use by small-scale producers (Lerman 2001).

In Romania, by contrast, farmland was restituted to the pre-collectivization owners and their heirs (Swinnen 1997). In 1991 the 'Law on Land Resources' liquidated all collective farms, giving their land to the households that had ceded it during collectivization (Verdery 2003). State farm land began to be restituted in 2000 on the basis of the 'Law on the Reconstitution of Property Rights'. Unlike in Albania, most of the new owners who received land through restitution had not farmed it themselves during socialism (Gerber and Giovarelli 2005). Many had actually left their villages of origin and moved to urban areas. Because they lacked the necessary means to cultivate it themselves, many of the recipients decided to lease their land to agricultural associations that took over cultivation for them.

Like their land reform policies, the structure of land administration differs between Albania and Romania. Albania was the target of a sizable project with funding from USAID, the World Bank and the European Economic Community to launch an Immovable Property

Registration System (IPRS). The project amended and recorded post-distribution property information on maps and individual property deeds. It was also involved in the elaboration of fundamental property legislation and in setting up IPRS offices in all districts (Lemel 2000). Policy-makers designed the system of Albanian land administration to work on two levels. On the one hand, they envisioned the local administration in the communes to handle land appraisal, tax administration, land use monitoring and much of land conflict resolution. On the other hand, land titling, spatial planning and the registration of land transactions are meant to be done by the IPRS through its district offices. Romania, in contrast, has not received a project to build up a land administration system from scratch. Instead it is attempting to integrate and modernize existing systems from the past (Gerber and Giovarelli 2005). Like in Albania, the Romanian system is designed to distribute responsibility for the different functions of land administration between different levels of government. Policy-makers expect the mayors' offices to deal with land restitution, taxation, land use monitoring and conflict resolution. The county land commissions are supposed to handle title issuance and changes in land designation. Finally, the National Agency for Cadastre and Land Registration (NACLR) is in charge of the registration of land transactions and the cadastral and cartographic aspects of land administration. In both countries the final authority in resolving land conflicts lies with the court system.

When it comes to put the rules and regulations designed for effective land administration into practice, Albania and Romania differ substantially in their capacities. Albania, on the one hand, has experienced repeated attacks on state power throughout its postsocialist history. The attacks culminated in instances of nationwide anarchy in 1991 and 1997 (de Waal 1998). Since then, instances of disorder and lawlessness are still plentiful at the regional level. As a result, local government is weak in many regions, profoundly affecting its power to implement effective land administration. In Romania, on the other hand, 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 (Verdery 2002). Unlike Albania, which due to the anarchy that characterized much of the 1990s underwent repeated setbacks on its way to EU integration, the relative stability of the Romanian state has significantly contributed to Romania achieving European Union membership in January 2007.

Taken together, there are strong differences between Albania and Romania in terms of land reform choices, land administration systems and local government capacities. In these aspects the two countries may indeed be regarded as opposite extremes in the Central Eastern European context. A comparison between the two therefore promises interesting insights on the workings of local land administration that are of relevance to the larger region.

AN ASSESSMENT TOOL FOR LOCAL LAND ADMINISTRATION SYSTEMS

The project that forms the basis of the present paper aimed to develop a tool for assessing local land administration systems, generating insights into the actual operation of land administration on the ground. The objective was to design a tool that would generate the required information and require limited financial and human resources. In this way, the tool would help enhance the capacity of policy-makers to establish effective and efficient land administration systems. The tool supplies them with relevant information on problematic issues regarding the aspects of land administration identified in Figure 1. It also contains a general evaluation of corruption in land administration. In addition, the tool supports not only the analysis of problems in the respective fields of local land administration but also the development of recommendations for potential solutions.

Application of the tool requires limited human and financial resources. Two people need one day to cover one village. The activities in the village include a standardized household survey and qualitative interviews with households and land administrators. The collected household data are entered into a simple database for their analysis. The main findings are synthesized in brief reports.

The results presented in the following stem from the application of the tool in six villages on a pilot basis. The villages are located in different regions of Albania (districts of Krujë, Durrës and Pogradec) and Romania (Transylvania, Moldova and Walachia). The tests in the villages were primarily intended to improve the quality of the questionnaires. The respondents were selected purposively based on their exposure to the land administration system. Households which had done land transactions or had land conflicts were preferred. In addition to testing the questionnaires we conducted interviews and focus group discussions with land administrators. Because of the exploratory nature of the pilot project, the results from the six villages are not generalizable. As a next step, however, we intend to apply the tool to much larger samples and produce generalizable results.

RESULTS

Titling

In both countries many households use agricultural and urban land without having a legal title on it. In Albania 80% and in Romania 48% of households in our survey do not have final land titles yet.

In Albania, the most important reason for this is a lack of information that these titles exist. A second reason is that households often do not use their land because it is perceived as having insignificant value (e.g., pastureland). A third reason is that because many land transactions are made on an informal basis and not according to law, households do not need a final legal title to make the transaction. In Romania, another reason is that households refuse to accept titles because they contain incomplete or simply wrong measurements of plot boarders.

Finally, and perhaps most important, in both countries households know that there is a high degree of corruption involved in obtaining land titles, and they are unwilling or unable to cope with it. In Albania, for instance, the final legal title that guarantees ownership of agricultural land is a title issued by the IPRS offices. Among landowners it is common knowledge that registration of landownership at the IPRS usually takes several months and requires the payment of high bribes. Only in one of the three Albanian villages registration at the IPRS was done quickly and without any bribes because the office was pushed by the national government to prepare a smooth expropriation of households for highway construction.

Taxation

In Albania, 60% of households in our survey pay taxes for agricultural land and 75% pay taxes for residential land. In taxation, transparency appears to be high and corruption low. All households who pay taxes know how their tax bill was calculated, and agree with the way. In general, there are no legal sanctions that the communes can apply to households that do not pay taxes. In practice, however, communes often refuse any kind of service to households who do not pay taxes.

In Romania, agricultural land was not subject to taxation until 2001. Since then, taxes for agricultural land have remained very low (in 2006, for example, a maximum of 8 Euro p.a. per hectare of cropland, depending on the land category). Taxes on residential land are

significantly higher. Like in Albania, the land categories on which tax calculations are based are determined by the local administration. Unlike in Albania, nearly all households in Romania pay their land taxes.

Transactions

In Albania sales of agricultural land were legally prohibited until 1995. In practice, however, there has been a substantial amount of informal land transactions (cf. Bloch 2000). Since 1991 60% of households in our sample have had one or more land transactions. Despite the reservation that the households in our sample were purposively selected, this result stands in stark contrast to sources that report a near absence of land transactions in Albania (e.g., Deininger 2003, Swinnen et al. 2006). One reason why the volume of land transactions may have been underestimated is that only a small fraction of the actual transactions have been registered at the IPRS office (8% in our sample). The most important reason why they were not registered was because most households do not know that the title from the IPRS is the final and legally binding title. Many believe that the document issued in 1991 by the land distribution commission of the village is the only legal title and that the contract between the buyer and the seller, signed by a notary, is the final legal document of the transaction. The exact legal process is unclear to most households.

Most transactions we recorded in Albania happened with the intention to construct a building for private or commercial purposes. Selling and buying was exclusively done in cases in which the seller was also the pre-collectivization owner of the land that was for sale. Thus, it was important to the buyers that the distributed land for sale coincided with pre-collectivization ownership because this increased tenure security.

Similar to Albania, our findings in Romania stand in contrast to sources reporting that low prices for agricultural land, low land taxes, and high transaction fees discourage land transactions (e.g., Gerber and Giovarelli 2005). In our sample still about one third of households have had one or more land transactions since 1997. As in Albania, the transactions in Romania were often not registered at the NACLR offices.

Monitoring and sanctions

In both Albania and Romania the local land administrators in our survey monitor changes in agricultural and urban land use relatively well. The responsibility for this task usually lies

with the agricultural offices of the communes and mayors' offices. In Albania, landowners usually inform the agricultural offices of any changes that they do on their land in order to facilitate the administration's work.

In both countries the local administration may also sanction illegal changes in land use, usually by way of fining the offenders. Especially in Romania, however, our respondents often complained that the local land administration did often not take the necessary steps to sanction offenders that had good connections to the mayors' offices.

Complaint system and conflict resolution

Land conflicts are frequent in both Albania and Romania. In Albania, 55% of our purposively selected households have had at least one land conflict since 1991. Romania, in the same time period, counted more than 1 million court proceedings stemming from land conflicts.

Most land conflicts in the two countries involve rivaling or overlapping claims to a piece of land, boundary disputes, or conflicts about road access. Households usually try to resolve them on a personal level (e.g., through the mediation of relatives) before turning to official channels of conflict resolution.

If conflict resolution at the personal level fails, the next steps are filing complaints at the communes or mayors' offices and, ultimately, handing the conflicts over to the courts. In both countries however, households have very little trust in the court system. In Albania, for instance, only 14% of the interviewed households trusted the courts. Of the remaining 86%, all believe that there is a high level of corruption in the court system and that it is necessary to pay bribes in order to win a case. In Romania, despite (or, perhaps, because of) the flood of court cases, households complained about prolonged legal procedures, high fees for legal council, and a high degree of corruption in the court system.

Spatial and land use planning

Disseminating information on land development plans is one of the fundamentals through which effective land administration functions. Yet, among rural dwellers in Albania and Romania our survey has found a dramatic lack of knowledge about land administration, including a lack of information on land use planning. Not only are the correct legal procedures of land registration and land transaction unknown to most households. Many do

also not have information about the development plans of the village or commune regarding their property. In Albania only 15% of households responded that they had adequate information on this issue. In Romania respondents reported that people trying to ask such information in the county offices were often refused by the administrators or were asked for bribes if they wanted specific information.

Land-based mortgaging

Because land titles are often not clear and secure, banks often refuse them as collateral. In Albania banks accept registered agricultural land as collateral for credit to purchase agricultural input or housing but they refuse agricultural land as collateral to purchase agricultural land (Lushaj 2004, cited in Gerber and Giovarelli 2005). In Romania banks refuse agricultural land as collateral for whatever purpose.

General evaluation of land administration

In our survey we also asked respondents to give us a general evaluation of land administration. In Albania, most households believe that land administration works best at the local level, i.e. in the communes. In the eyes of the villagers, the sectors of the land administration that function worst are the registration of land titles at the IPRS office and the system of conflict resolution. The highest bribes have to be paid at the IPRS office.

In Romania, on the other hand, most households believe that land administration functions worst at the local level. They feel that land administrators at the mayors' offices are corrupt and tend to endorse the interests of the local elite against the majority of villagers. In contrast to Albania, the Romanian respondents believe that land administration functions better at the higher levels of government – i.e., in the county land commissions and at the NACL. Compared with other sectors such as education or health, most households in both countries believe that the level of corruption is about the same.

DISCUSSION

Taken together, our results demonstrate a wide range of deficiencies in the actual operation of local land administration systems. The insights from the six villages in Albania and Romania show that:

- Many people have not received final land titles yet.

- There is a general lack of knowledge about land administration.
- Most land transactions are not registered.
- Land conflicts are frequent and often linger on for several years.
- Effective systems to deal with complaints and resolve conflicts are missing.

The results, therefore, indicate a striking discrepancy between the way land administration is expected to work and its actual operation in practice. If one looks at land legislation and regulations, the procedures to obtain titles, register transactions, and resolve disputes appear clear. Yet if one examines actual practices on the ground, land administration does not appear to fulfill the expected functions. Land administration does not seem to support the development of land markets, as expected by policy-makers and rural people alike. In fact, most land transactions are not registered with the units in charge. In addition, many people have not received titles for their agricultural land yet, and they do not even know that the titles exist or understand the significance of the titles for legal matters. Formal mechanisms for the resolution of land disputes operate in practice in a rudimentary manner, at best.

Furthermore, we have found that rural people in both countries consider land administration as very corrupt, although they find some agencies more accountable and attentive to their needs than others. There is a clear difference in this regard between the two countries. Rural people find Albanian land administration more helpful and less corrupt at the communes than at the district level, in particular the IPRS offices. In Romania, by contrast, people believe that the institutions at the local level of land administration are less helpful and more corrupt than those at the county level, including the land commissions and NACLRL offices. This difference between Albanian and Romanian land administration, we believe, is due to differences in accountability structures between the two countries.

In Albania, the weakness of the state has made local administrators in the communes dependent on the goodwill of their constituencies. Therefore, they tend to be relatively attentive to local needs. In contrast, land administrators at the IPRS are generally left unchecked by lower and higher level authorities and therefore show considerable leeway in correctly implementing land administration policies. In Romania, on the other hand, it is the *local* state officials that lack downward and upward accountability (Verdery 2002). Frequently, Romanian mayors and their commune allies have “captured” the local state by positioning themselves as patrons to their constituencies, controlling key resources and

powers, such as property titles, government payments, and muscle to monitor and sanction land use (Mungiu-Pippidi 2005).

The general dissatisfaction with land administration in both countries stands in stark contrast to people's general evaluation of the land reforms after 1990. In both Albania and Romania, most households we interviewed were generally satisfied with the mode of land reform in the respective country. Only few households offered criticism about the amount of land they got through distribution or restitution. In addition, in Albania households complained that viable commercial agriculture was not possible on their small and fragmented holdings. In Romania households objected to the fact that a share of the formerly collectivized land had not been restituted because roads, irrigation channels, water reservoirs and other public infrastructure had been constructed on it during socialism. Yet overall, the generally positive attitudes towards land reform sharply differ from people's negative assessments of land administration.

RECOMMENDATIONS AND OUTLOOK

The findings presented in this paper indicate that land administration in Central and Eastern Europe may not serve its intended functions. In practice, land administration may not support the formalization of land tenure by way of titles, the development of land markets, and the resolution of land disputes. In addition, our findings also suggest that land administration may not fulfil its expected functions because of significant incidences of corruption. Underlying these problems appears to be a lack of accountability of the involved institutions.

The findings, therefore, demonstrate the need for governments in Central and Eastern Europe to increase the accountability of land administration. They may do so by increasing the transparency of land administration through the involvement of third parties, such as non-governmental organizations (NGOs). NGOs could support rural people locally by assuming an advocacy function, helping them gain access to public information, use complaint systems, and resolve land disputes. NGOs could also inform national policy debates by bringing in actual experience from the ground. In addition, NGOs may be able to respond to country-specific issues, as efforts to increase accountability will have to follow different strategies.

These insights suggest the urgency of two actions in support of transparent land administration in Central and Eastern Europe. First, given the pilot nature of the results presented here, there is a need to conduct a more systematic assessment on the actual

operations of land administration in the region, covering a number of land administration systems and geographical settings. As valuable as the insights gained from the pilot application are, they require corroboration by way of a larger-scale study. Second, NGOs will require technical support to enhance their capacity on matters concerning land, particularly agricultural land. Although there is a variety of NGOs dealing with transparency issues in Central and Eastern Europe, most of them have little experience with agriculture. A tool such as the one informing this study, may make important contributions to both types of action. It could serve a larger-scale assessment and serve the NGOs' work, helping to identify key issues and prioritize geographic areas for assistance.

Last, but not least, the operation of Central and Eastern European land administration gains additional immediacy considering the requirements of accession to the European Union. As new members, Central and Eastern European countries are expected to operate functioning land administrations. Among other things, the countries will have to establish databases/registration systems to satisfy the reporting requirements in the EU and serve the administration of payments under the Common Agricultural Policy (FAO 2006). Thus, it seems about time that land administration not only works in theory but also improves its operations in practice.

Acknowledgements

We thank Juliana Shllaku from Citizens' Advocacy Office (CAO), Tirana, and Liviu Chelcea and Magda Dinu from the University of Bucharest for their contributions to the fieldwork that informs this paper. The research was carried out with funding from the German Research Foundation (Deutsche Forschungsgemeinschaft, DFG) under the Emmy Noether-Programm.

References

- Bloch, P.C.** 2000. "Potential for Rural Property Markets." In H. Lemel, editor, *Rural Property and Economy in Post-Communist Albania*. Berghahn Books. New York, Oxford. 75-91.
- Cungu, A. & Swinnen, J.F.M.** 1999. "Albania's Radical Agrarian Reforms." *Economic Development and Cultural Change*. 47:605-619.
- Deininger, K.** 2003. *Land policies for growth and poverty reduction*. Washington, DC: The World Bank and Oxford University Press.
- De Waal, C.** 1998. "From Laissez-Faire to Anarchy in Post-Communist Albania." *Cambridge Anthropology*. 20:21-44.

Food and Agricultural Organization. 2006. *European Union Accession and Land Tenure Data in Central and Eastern Europe*. Land Tenure Policy Series 1. Rome: FAO.

Gerber, L. & Giovarelli, R. 2005. "Land Reform and Land Markets in Eastern Europe." *Land Reform, Land Settlement and Cooperatives* .64-77.

Lemel, H. (ed.). 2000. *Rural Property and Economy in Post-Communist Albania*. Berghahn Books. New York, Oxford.

Lerman, Z. 2001. "Agriculture in Transition Economies: From Common Heritage to Divergence." *Agricultural Economics*. 26:95-114.

Mungiu-Pippidi, A. 2005. "Reinventing the Peasants: Local State Capture in Post-Communist Europe." In S. Dorondel and S. Serban, editors, *Between East and West. Studies in Anthropology and Social History*. Editura Institutului Cultural Roman. Bucharest. 308-326.

Swinnen, J.F.M. 1997. "The Choice of Privatization and Decollectivization Policies in Central and Eastern European Agriculture: Observations and Political Economy Hypotheses." In J.F.M. Swinnen, editor, *Political Economy of Agrarian Reform in Central and Eastern Europe*. Ashgate, Aldershot. 363-398.

Swinnen, J.F.M., Vranken, L. & Stanley, V. 2006. *Emerging Challenges of Land Rental Markets: A Review of the Available Evidence for Central and Eastern Europe and Former Soviet Union Countries*. The World Bank. Washington, D.C.

Verdery, K. 2002. "Seeing Like a Mayor. Or, How Local Officials Obstructed Romanian Land Restitution." *Ethnography*. 3:5-33.

Verdery, K. 2003. *The Vanishing Hectare: Property and Value in Postsocialist Transylvania*. Cornell University Press. Ithaca, N.Y.