



## Commons in Transition

# **THE IMPACT OF PROPERTY RIGHTS AND DECENTRALIZATION ON LAND MANAGEMENT IN ROMANIA**

**BORBALA ESZTER BALINT**

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# **The Impact of Property Rights and Decentralization on Land Management in Romania<sup>1</sup>**

Borbala Eszter Balint

*The paper reviews the changes, which have occurred in the property rights over land and in the decentralization process in Romania since 1990, and evaluates their relation to the change in land management. It is found that the unclear, uncertain and informal property rights that have emerged as a result of the transformation of common to private property and the slow development of land markets had a negative impact on land management. In addition, neither the central nor the local authorities could be influential with respect to enforcing the property rights or land use regulations. Currently, the relatively developed land market and local government abilities offer prospects for improved land management.*

## **Introduction**

Romania is one of the Central and Eastern European countries where the transition process towards a market economy has taken place with significant changes in various areas. An important aspect in the reform agenda has been the initiation of the processes of privatisation and decentralization. At the same time the quality of several natural resources has declined, in particular the quality of land. Land has been subject to privatisation and is also a local good, the management of which is very much influenced by the abilities of local governments to enforce the laws related to land use and to identify specific local problems regarding soil protection and improvement. Private property rights, the laws limiting the inappropriate use of land, the enforcement of these laws and the capacities of local authorities for natural resource management are all important factors in the land management process. Therefore, I attempt to offer an overview of the changes that have occurred in the property rights over land and in the decentralization process of power towards local authorities in Romania, as well as their impact on land management.

In general, the literature suggests a positive influence of privatisation on natural resources. Privatisation may be efficient from a natural resource management point of view in case of such resources as land (Vugt 2002). The well-known “tragedy of the commons” reflects that rational individual behaviour will lead to the overexploitation of natural resources where private property rights are missing (Hardin 1968). However, this approach is challenged by the field studies reported by Ostrom (1990), which show that behavioural factors, institutions and motivations are important and that there are possible efficient cooperative solutions.

Another factor that influences natural resources is decentralization. The argument is that centralized management fails to protect natural resources due to several reasons: difficulty in obtaining information on different resources and users, the hardships in enforcing the laws from an administrative and financial point of view, corruption within the administration leading to conflicts, attribution of higher importance

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to short term political and economic goals than to natural resources. Local institutions and people will be in many instances more aware of local environmental problems than central authorities (Sekhar 2000, Larson 2002). However, central governments still have an important role to play in natural resource management through their non-local perspective in the case of problems affecting more than one region. In addition, the impact of decentralization on natural resources depends very much on the attributes of local governments (Larson 2002).

This paper argues that, in Romania, the decentralization and private property right formation processes have not improved the quality of the soil but contributed to its deterioration. This has been a result of the inadequate timing of the different laws encouraging only partial changes at a time and the gap created in the natural resource management and the law enforcement ability of central and local government when shifting tasks from the former to the later.

The paper consists of four parts. First, I describe the evolution of the status of land resources. Then I analyse the relation between private property rights, emerging land use regulations and land management in the transformation process. In the next section the decentralization process and its impact on land management is illustrated. In the discussion the impact of both privatisation and decentralisation on land management is summarized taking into consideration the interaction between the three processes as well. The last section concludes.

## **1. Land and agriculture**

Land resources in Romania are vital. Out of the total land area 62% is agricultural land (NCS 2001). Agriculture plays a significant role in the Romanian economy. It has absorbed a large part of the population laid off during the restructuring process and contributes significantly to the national income, although in a declining manner. Indeed, the contribution of agriculture to GDP has dropped from 23% to 12%, while its share in employment has risen from 29% to 41% between 1990 and 2001 (NCS 2001). This indicates the decline in the labour productivity of the agricultural sector, which may be attributed to the decline in the land quality, besides other factors like the deterioration of machinery, lack of new technologies, lack of other inputs and land fragmentation. Actually, the productivity of the agricultural lands in the transition period has decreased by 20-30% (Government of Romania 1997).

No significant changes have occurred in the land use patterns during the transition (Annex, Table A1). The size of the arable land and that of vineyards and orchards has slightly decreased in favour of pastures and hayfields. This indicates a shift towards more extensive farming, which means usually less negative impact on the environment, if there is adequate land management (Toma 2002).

The agricultural activities during the transformation have encouraged the physical, chemical and biological degradation of the soil. The physical degradation has incorporated erosion, desertification, waterlogging and compacting. The chemical degradation has manifested itself in acidification, salinisation and contamination by micro-pollutants. At the same time the biological degradation has been mainly due to low humus content and change in biodiversity (Toma 2002).

The qualitative changes in the agricultural land have led to a change in the distribution of land with respect to the suitability classes<sup>2</sup> (Annex, Table A2). The biggest shift seems to have occurred in the first years of the transition, lowering significantly the percentage of land area belonging to the first class while increasing the percentage of land of the lower quality classes. Beginning from 1993, the pattern of distribution of land has been almost unchanged. However, the change in soil quality reported in 1993 may be due to a re-evaluation of the quality of soils and not necessarily to the qualitative change in that year.

Table 1 illustrates the increase in the size of the area from 1992 to 2000, influenced by different land quality limiting factors. The area affected by the listed factors has either been constant or has increased during the transition. The increase in area for some of the factors could have been corrected through adequate land management practices.

**Table 1**  
**Major limiting factors affecting soil quality**  
**(Millions of hectares affected)**

	<b>1992</b>	<b>2000</b>
Wind soil erosion	0.38	0.38
Water soil erosion (of which anti-erosion arrangements)	2.80	6.30 (2.27)
Landslide	0.70	0.70
Frequent drought (of which arrangements for irrigation)	3.80	7.10 (3.21)
Waterlogging (of which arrangements for drainage)	4.00	3.78 (3.20)
Soil compaction due to inadequate works ("plough sole")	6.50	6.50
Strong and moderate acidity	2.30	3.42
Low level of nitrogen	3.60	5.11
Low level of mobile phosphorus	4.50	6.33
Deficiency of microelements (zinc)	1.50	1.50
Chemical pollution (due to different socio-economic activities)	0.90	0.90
Salinisation	0.60	0.61

National Commission of Statistics (2001)

Indeed, water soil erosion, frequent drought or excess water has impacted a large area, although arrangements for the prevention of erosion, irrigation facilities and drainage equipments have been present on a significant share of it. These arrangements have not been maintained and thus could not be used (NCS 2001). The decrease in the

<sup>2</sup> The suitability class represents the soil aptitude for a certain agricultural use. Depending on its productive potential, the soil is included in one of the 5 adapting classes (NCS 2001).

level of nitrogen and phosphorus has also been significant and it parallels the decrease in the use of chemical fertilizers in agriculture during the transformation.

Other human activities have negatively influenced the soil quality as well. Deforestation affects the area damaged by wind soil erosion and this area will probably increase in the future. Inadequate works have caused soil compaction. Water losses from irrigation, amount to about 40% of the total amount of water used for this purpose and result in waterlogging. Irrigation is also a source of toxification, when water from polluted rivers like the Olt, Arges, Mures, Siret, Prahova, and Trotus is used. Presently it is not a threat, since the existing irrigation equipment is mostly not used. In the areas with irrigation system but no drainage system, soils become salty, because excess irrigation causes groundwater levels to rise, causing salt concentration (Toma 1999). The residues originating from animal farms constitute a serious pollution source. The elimination of residues pollutes the water and, in the case water is not decontaminated, it affects soils (Toma 1999).

There is a large room for improvement of natural resource management and in particular land management. Better land management would improve land productivity. For example, in areas facing significant erosion, soil conservation has improved yield by 6 to 8 folds (Toma 1999).

Several external factors affect land management. The change in property rights could be one reason for the negative evolution of the quality of soils. A specific example is the inappropriate timing between the privatisation of land and the privatisation of irrigation equipment (Leonte 2001). Another aspect is the decentralization process, with peculiarities related to the change in the role of local governments, central government and the markets in the land management process.

## **2. Land reform and their impact on land management**

A first influential factor in the transformation process with possible impact on land management is the change in property rights. The process can be distinguished in the legal reform, that is the adoption and timing of the laws, and the result of the reform, or the actual change in property rights and the development of land market. In what follows I will present the changes in these aspects and their influence on land management.

### **2.1. Legal Reform**

The reforms of the property legislation have targeted the transformation of a large part of common property to private owners, including the agricultural lands, too. At the same time the reforms contained provisions for maintaining some key natural resources in public ownership. The legislation has also connected property rights with various duties in order to ensure the fulfilment of public interests in land (Sikor 2002).

The main laws which have affected the evolution of formal property rights, as well as that of land use regulations are the Law on Land Resources (LLR 1991), on Lease (LL 1994), both republished in 1998, and the 1998 Law on the Legal Circulation of Land (LLCL 1998).

- *1991 Law on Land Resources*

The law contains provisions related to obtaining private property right on the land that is owned by the agricultural production cooperatives. The land is to be returned

to the prior owners, their heirs and cooperative members who did not contribute land. It is specified that all owners of agricultural land must ensure the cultivation of land and soil protection and under what conditions and to what uses the different types of land could be converted. Moreover, there are indications for land improvement (LLR 1991). All these land use specifications are similarly adopted in the other CEE countries (Sikor 2000). These provisions have created the legal framework necessary for the adequate protection and cultivation of land.

- *1994 Law on Lease*

This law encourages agricultural land transactions, by allowing Romanian citizens and legal entities to conclude contracts on agricultural land and agree on the duration of lease and the rent the lessee shall pay (LL 1994).

- *1998 Law on the Legal Circulation of Land*

The law contains provisions for land transactions and enables the Romanian citizens to acquire and dispose of agricultural land. It states that the sales “of the agricultural lands located outside the built-up area is made in compliance with the pre-emption right held by the joint owners, the neighbours or the leaseholders” (LLCL 1998).

The pre-emption right reveals an important aspect, beneficial for land management. First, those who are staying in the close neighbourhood of the land are privileged when it comes about buying the land. These persons will probably have incentives to protect their close environment. Moreover, leaseholders, knowing that they will be advantaged to other persons when the land is sold, have higher motivation to invest into land conservation and protection.

Land management has been influenced by the evolution of the privatization process of the irrigation facilities. The land reform from 1991 did not include in the privatisation of assets the mechanisation or irrigation services. In 1994 the so-called “Regie Autonome for Land Reclamation” has been established, having among its duties the operation of irrigation and drainage, the management of flood-control infrastructure and soil erosion control. Only recently, this entity has been reorganised to be suitable for further privatisation and restructuring, and Water Users Associations have been established (Leonte 2001).

This highlights the randomness of the privatisation process with respect to the adoption of the laws. The irrigation facilities have not been privatised at the same time as the land resources, and since they have not been properly maintained and used, they have caused waterlogging as well as soil salinization. This has been due to the creation of informal property rights on the irrigation facilities by the local people, using them until they have deteriorated or have been stolen, and the lack of interest and funding from the part of the state to intervene in this process (Leonte 2001).

The legal reforms have promoted both the privatisation of the land and the increase in the land transactions. Next, I analyse the evolution of property rights and land market as a result of the reform, and point out their impact on land management.

## **2.2. Results of the reform**

### *Emerging farms*

In the place of agricultural production cooperatives, different forms of farming have appeared. Some authors distinguish between the farms depending on the cooperative form: individual farm, family associations and legal associations (Sabates-

Wheeler 2001). Others differentiate farms according to the subsistence or commercial characteristics<sup>3</sup>.

The separation of farms in subsistence and commercial ones has ambiguous impact on land quality. While subsistence farming is less harmful with respect to the use of fertilizers, pesticides and heavy machinery (Toma 2002), in commercial farms investment possibilities in soil conservation and in environment friendly technologies are greater. Commercial farms have more specialists with adequate knowledge for environmental friendly land management practices. Moreover, market oriented producers are more receptive to the incentives provided by policymakers, aimed at sustainability of production. According to a case study conducted in southern Romania, mostly the large, therefore commercially oriented producers have had been aware of soil quality and practiced for example crop rotation (Leonte 2001).

#### *Land ownership*

During the transition there was uncertainty related to the legal framework. Several laws have been republished more than once, like LLR 1991, LL 1994 and even currently a new law on land ownership has been adopted (Rusu 2002). The uncertainty of the legal framework has furthered uncertainty in property rights.

Another peculiarity has been related to the fact that the land management has not always corresponded to land ownership. In fact, the reform did not necessarily provide the land to those, who could actually farm it (Sabates-Wheeler 2001). This has been attributed to the mismatch between the access to land and dependence on land for living, since many new landowners have been urban inhabitants. Moreover, the majority of land was returned to an elderly class, without the necessary labor resources. Many young people have also migrated to urban areas (Leonte 2001). The divergence between actual use and ownership rights has decreased the incentives to invest in land protection and improvement.

Throughout the transition land ownership rights have not been clear. One could distinguish among those persons who have received back the land ownership, those who have received back the land but still not the ownership title and the ones who did not get back their lands. Still more than 20% of the entitled persons have no ownership titles and 13% of them no land (Rusu 2002). This phenomenon has negatively influenced the land transactions and has hindered good land management. Currently, the titling and registration process has been finalized for 80-90 % of the privatised land, with some disputes about the remaining part of untitled land (Duncan and Prosterman 2000).

Privatisation and land transactions have also evolved at an informal level. The newly established property rights find their expression in the property rights-in-practice. First of all, the legal duties connected with property rights on land are ignored. Moreover, there is an illegal privatisation registered in many CEE countries, for example people appropriate the resources, which are in public property (Sikor 2002).

Disputes over legal land titles and lack of clarity in property rights negatively influence the incentives to invest into land. The evolution of informal property rights and the formation of rules-in-use on private property have the same result and it decreases the effectiveness of land use regulations.

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<sup>3</sup> Subsistence farming is the use of a high share, usually 50%, of own production for the satisfaction of own consumption (Wharton 1969).

### *Land markets*

Land markets can play a significant role in correcting the difference between ownership and use, consolidation of property rights and providing motivation for good land management.

However, in Romania the leasing and the sales of agricultural land have been quite sluggish because of the late republication of the necessary laws (in 1998) as well as because of the lack of clarity in the ownership titles. Currently, the lease market is significantly developed and there seems to be a tendency of growth. Sales transactions are fewer, usually because of the advantageous price lease agreements provide as compared to sales price (Duncan and Prosterman 2000).

As a result of the slow development of land markets, the owners have been willing to lease their land only for short periods. In turn, the lessees have not been willing to make long-term investments in land improvement. One such example has been the application of phosphate fertilizers (Sarris et al 1999). In line with this argument, the higher number of lease agreements and lower number of sales during the transformation process has been also harmful for investment into soil protection. A possible correction of these problems could have been the pre-emptive right, favouring the lessees, which was included in the law only in 1998.

There are prospects for land market development. Several small farmers and large lessees have expressed their interest in buying land, less that of selling. Non-resident owners were the most frequent sellers, that is, people not living in the commune where the land was located. Pensioners, especially resident ones, were in general reluctant to sell their land, because they use it for providing food for their families, and want to inherit it to their children. Even those pensioners who have decided to sell their land usually have retained a small portion for own cultivation (Duncan and Prosterman 2000).

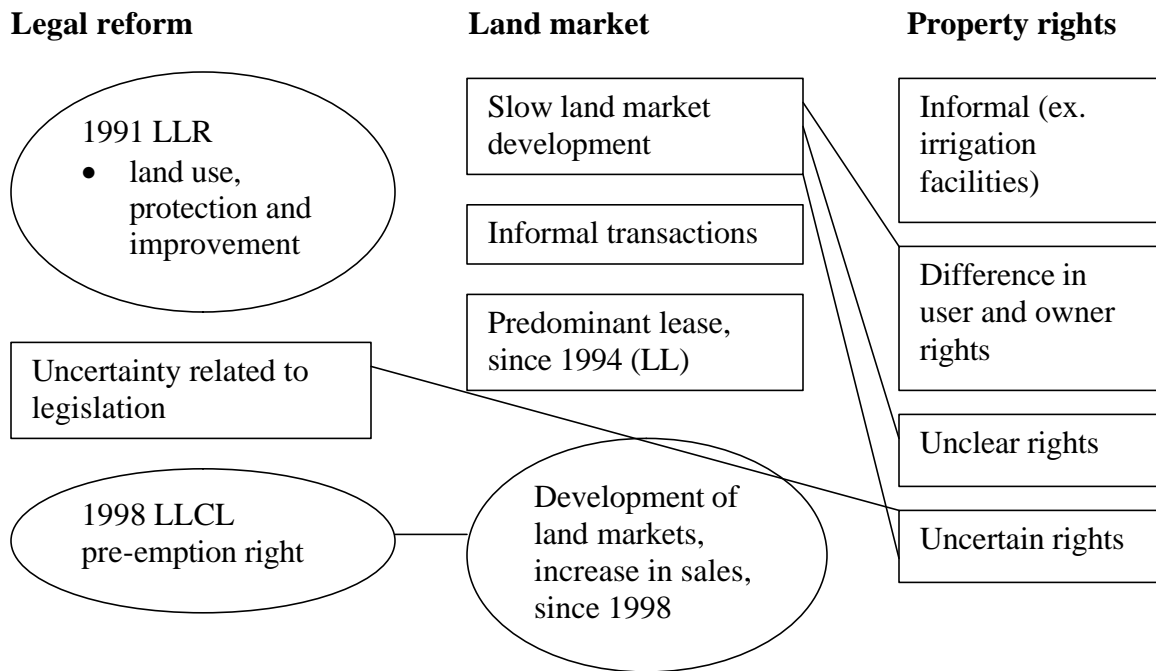
Numerous barriers hinder the further development of land markets. High notary fees encourage informal land transactions. The real value of the holdings is usually not declared even in the case of official sales. The disputes between different potential owners hinder the establishment of the legal titles for the land, and thus the possible transactions. Smallholders cannot access the contract enforcement mechanisms, which make them vulnerable for example against the breach of contract from the part of the lesser (Duncan and Prosterman 2000). The high share of informal transactions limits the possibility of authorities to intervene in the case of inappropriate land use.

### *Implication for land management*

The results of the above analysis are presented in Figure 1. The elements of legal reform, property rights and land markets on land management, depending on whether the attribute has a positive or negative impact on land management, is included in a circle or a quadrate. The arrows show, how the elements influence each other, this relations being already described above.



**Figure 1**  
**The impact of legal reform, land market and property rights**  
**on land management**



We can conclude that bad land management is partly due to the late adoption of the laws, which promote certainty regarding property rights and encourage the development of the land market. The unclear property rights and the undeveloped land markets have had both detrimental impacts on land management. Currently, the legal framework necessary for land conservation and improvement are present, land market has started to develop.

Since the market and property rights could not fulfil their role in land management, the central and local government should be examined, in order to get a complete picture of the land management ability present in Romania during the transformation. The decentralisation process, by ensuring more power for the local governments could have played a significant role in both property rights enforcement, and identification of specific problems existent on local level with respect to land. Therefore, I will examine the changes, which have occurred related to decentralization during the transition to a market economy, and how this could influence land management.

### **3. Decentralization and its relation to land management**

The enforcement of property rights and the evolution of land management capacities have been interrelated with the decentralization process. Indeed, as the central government has delegated its responsibilities towards the markets, civil society and local governance, it has also lost some of its capacities to enforce property legislation (Sikor 2002).

Decentralization consists of deconcentration (the transfer of authority from the central government to its own local representatives), delegation (redistribution of decision making and management authority to partially independent units), devolution (the reallocation of governing authority to independent, autonomous local government units) and privatisation (the transfer of authority from the central government to the non-governmental sector) (Larson 2001). All these processes have occurred to some extent in Romania.

Although the decentralisation process in Romania is multi-faceted, I concentrate mainly on the changing abilities of central and local governments in property right enforcement and resource management. In my analysis related to local governments I follow such characteristics as capacity (necessary human and financial resources, adequate legal framework) and incentives (possibility of increasing municipal income, pressure or funding from civil society, need to solve conflict). Long-term commitment is a third characteristic necessary for good resource management (Larson 2002). This latter one is not analysed, due to lack of information.

Table 2 shows the formation of the land management abilities of the local government together with the main laws affecting it. The different characteristics are distinguished with positive and negative signs, depending on whether a given law and other influences have positively impacted or have not affected the respective characteristics.

**Table 2**  
**Decentralization and the formation of**  
**land management abilities of local governments**

	<b>Legislative capacity</b>	<b>Financial capacity</b>	<b>Human capacity</b>	<b>Pressure or funding from civil society incentive</b>	<b>Increasing income incentive</b>
<b>1991</b> Law on Local Public Administration, Law on Land Resources	+	-	-	-	-
<b>1992-1998</b>	(Ultimate responsibility at the central authorities)	(Dependence on state budget)	+	(Citizen participation, no NGO)	(However: fees for inappropriate land use to the local budget)
1995 Law on Environmental Protection			(Accountability)	+	
1995 Law on Training Public Administration Officials			+	(Participatory framework for civil society)	
			(Staff training)		
<b>1998</b> Local Public Finances Act		+			
1999 Law on the status of Civil Servants		(Fiscal autonomy)	+		
			(Organizational capacity)		

I argue that the various characteristics, concomitantly necessary for adequate land management have been formed in different years, therefore I differentiate various subsections in my analysis, that from 1991, for the period 1992-1998 and since 1998.

### **1991: Legal capacity**

The Law on Local Public Administration (LLPA 1991), together with the Law on Local Elections, has provided the legal support for the delegation of power to local governments and it has led mainly to administrative reorganisation.

The territorial structure of the public administration has been defined, as composed of counties, each with its capital, other municipalities, towns and communes. All these entities may own and dispose of public and private property and have authority and responsibility in all aspects related to the administration of local public interests (Coman et al 2001).

The composition of public administration has also been specified, as composed of central and local administration. The central administration is in charge of activities of national interest and it is composed of the ministries, the government, the central authorities, the central autonomous bodies and the deconcentrated territorial bodies. The local administrations have duties of local importance and consist of the local council, the mayor and the county council (Coman et al 2001).

The law allows the local councils to take decisions with respect to the environment (LLPA 1991). The commune, city, municipality commissions led by the mayor also have the duty to establish property rights, issue property titles, allocate land to those entitled. Moreover communes, cities and municipalities have to notify the owners of land about their obligation of complying with the requirements of the law related to land cultivation and soil protection, in case they fail to do so. If the individuals do not fulfil their obligations, they would be given an annual fine, which becomes part of the local budget. Local authorities can also report to the central authorities about the land areas that need to be converted into land improvement zones (LLR 1991).

The law specifies several roles for the central authorities, among them for the Ministry of Agriculture and Food and the Ministry of Environment. They should approve the land use changes and decide about land improvement works, which will be financed partially or totally from the budget. The central authorities have the obligation to introduce a monitoring, evaluating, forecasting and warning system about the condition of soils, and will propose measures needed to protect and improve the land (LLR 1991).

Thus the *legal capacity* has been present since the beginning of the decentralization process: the law ensured the authority of local government in local land management and property right enforcement. At the same time central authorities have maintained the ultimate responsibility in this respect.

The local governments have had the right to introduce local taxes and fees since 1991, however, these fees constituted only a minor part of the revenues of the local budgets (Luana 2002). Otherwise the local governments have totally depended from the central budget in financial matters. This suggests that the *financial capacity* necessary for good land management was not formed.

The possibility of *increasing municipal income*, the first component of the *incentive* structure could be influenced beneficially through the fees going to the local budget for not respecting the soil protection and land use regulations (LLR 1991). However this is a minor incentive; other economic interests related to land resources should be present so that the local governments would undertake efficient land management activities.

Citizen participation has also been defined, by requiring representation of local collective interests in matters like local budgets, urban and regional planning, environmental protection and local infrastructure (Coman et al 2001). The citizen participation has ensured that *incentives for better natural resource management provided by the civil society* would be present.

### **1992-1998: Incentives from civil society, human resources**

Since both financial autonomy and the power delegated to the local authorities have been limited, prefects have become the most important actors in the county. They lacked accountability and the responsibilities of various public authorities were unclear. This has resulted in the transfer of funds to the local authorities in a subjective manner, political interference and abuses on the part of the prefects (Coman et al 2001).

Effective local self-government and financial autonomy have been gradually consolidated since 1996. The law has stipulated accountability mechanisms in legal, financial and administrative matters. Administrative procedures were developed which resulted in more transparency when litigating among various actors at local level. Among these were the provisions related to the accountability of prefects, universal vote in county council elections and the clearer definition of the power of the authorities (Coman et al 2001).

In the period 1992-1996 the democratisation process and in particular the increase in the independence and diversification of mass media has continued. Structures at both central and local level were created which would communicate with the civil society. Local administrations could thus cooperate with NGOs in projects related to personnel training, environmental protection among others, in case their budgetary resources were not sufficient.

The law on Environmental Protection promoted civil society participation, too (LEP 1995). An objective of the law was to create a participatory framework for the non-governmental organizations and the population with respect to environmental protection. One important part of the law refers to the use of land, the maintaining of the ecological balance and favouring sustainable agricultural development. According to the law, environmental protection is the responsibility of the central authority for environmental protection and its territorial agents. The law has contained indirect specification for the right of the civil society to be informed about administrative measures, monitoring data, central and local level rules, plans and strategies (Bartha 1998).

*The incentive structure due to the pressure and funding from civil society* has been ensured through the above framework. The lack of accountability mechanisms in the beginning has impacted the incentive structure negatively, but later the improvements made and the emphasis on the involvement of civil society have all been beneficial for the incentives for land management.

The Law on Training the Public Administration Officials from 1995 has ensured advances in local government training and it has allowed the formation of *human resources capacity*. Indeed, this measure has been very much needed, since for example in the villages only 25% of the secretaries of the local councils have possessed the required university degree (Coman et al 2001). Territorial centres have been established for the training of the officials.

After 1996 the emphasis has shifted towards regional development policies. Local democracy has been stabilized and the legal framework for local public administration has been improved (Coman et al 2001).

### **1998: Financial capacity**

In 1998 the Law on Local Public Finances (LLPF 1998) was adopted which ensured the basis for financial autonomy. This has provided the legislative framework that would enable the local authorities to plan for the long term and offer local public services. Thus the managerial capacity could be strengthened. It has contained regulations about local revenues and expenditures, about the procedure of formulating, approving and executing local budgets and about the financing of public services and institutions. Moreover it ensured functional autonomy in problems of local interest and autonomy in the administration of public, private property of the local council and that of local resources used by the local budget.

As a result the weights of governmental transfers within the total revenues and the earmarked transfers from total transfers have decreased. The local authorities remained dependant on the central government in two respects: a part of the local revenues comes from state budgetary transfers and a series of specific programs are imposed on local administrations (Luana 2002).

All these changes have resulted in the transfer of more and more fiscal responsibilities to local administrations, with respect to activities and services beyond local control, usually centrally regulated (Luana 2002).

As a consequence, the *financial capacity* necessary for performing land management could be strengthened. However, the dependence on central budget is partly present, and the divergence between financial responsibilities and authority in some aspects suggests, that financial capacity still needs to be improved.

The transfer of financial responsibilities for activities under the authority of central governments has lead to the fragmentation of the accountability mechanisms (Luana 2002). In 1999 the Law on the Status of Civil Servants has been approved, which could help in developing the organizational capacity of local governments (Coman et al 2001). Thus, *human capacity* has been improved, while the *incentives from civil society* through the bad accountability mechanisms have been negatively influenced.

In conclusion, the various abilities of local authorities all necessary for good land management have been formed throughout the transition process. Next I will look at how the different timing of the changes in the decentralisation process has reinforced or weakened the impact of property rights on land management. I will also evaluate the current situation and the prospects for the future role of central, local governments and markets in natural resource management.

## **4. Discussion**

Local governments have not possessed the different attributes related to effective land management, and the various components of capacity and incentive structure have been adopted sequentially. This has paralleled the slow evolution in the clarification of property rights and in the development of the land market.

The formation of legislative capacity of local governments and the delimitation of the responsibilities of local and central authorities occurred when the privatisation process started. Since the other attributes of the local governments have not been formed at that time, they could not play a role in the clarification and enforcement of the property rights and land use regulations.

In the following years, the local governments have registered improvement with respect to human resources and incentives due to the presence of civil society. They have not possessed financial autonomy in turn. In parallel the environmental spending has gradually shifted from the central authorities to the private sector and municipalities (REC 1997). The local governments have had more abilities to intervene with respect to property rights and land management than before, but still not enough from the point of view of financial resources. At the same time the role of the central authority has weakened. Therefore, neither the local governments nor the central authorities could fulfil land management functions, while the land markets have also not been developed and could not cover this task.

From 1998 the financial capacity of the local governments has been formed and the land market has also developed. There have been advances registered in human resource formation.

We can conclude that during the transformation process there has been a gradual decentralization with different timing of the different measures adopted, similar to privatisation, influencing negatively land management.

Thus, seemingly in the present both the market and the local government have the ability of performing natural resource management. Still, the ultimate responsibility with respect to environmental protection remains at the central authority. The shift toward more involvement of NGOs and public, as well as local authorities and private sector has occurred, but there are no systematic procedures developed for land management purpose (Bartha 1998).

Luana (2002) describes the current characteristics of the local government, with the help of indicators of political and administrative performance, concepts interrelated with capacity and incentives. Political performance is composed of decisional, implementation performance, responsiveness to local needs and problems and democratic performance. Administrative performance is very often approximated by the quality of the administrative staff and the accountability mechanisms.

Implementation performance is poor, as approximated by the number of finished projects. This is partly due to the dependence on the equalization sums or earmarked subsidies from the state, in the case of the outcome of big investment projects. The “practice” of adopting the state budget act by the middle of the year influences implementation performance also negatively, because it leaves only half a year for the local council to spend the money. Any money left after the end of the year would negatively influence next years’ allocations from the state (Luana 2002). Thus, even if financial capacity is present, there is large room for improvement.

Other two components of political performance, strongly related to capacity, the responsiveness to local needs and problems and decision-making capacity appear satisfactory. Regarding responsiveness, there is in general higher satisfaction with the activities of the local administration and higher trust in the mayor and the city hall than in the case of other political or administrative institutions in the country (Luana 2002). The

decision performance is in general good, as measured by the timely adoption of the budget, organization of public hearings before its approval and rare postponing of the decisions (Luana 2002).

The quality of administrative staff indicator, a mirror of human capacity, still needs to be improved. The worse situation with respect to the lack of qualified staff is registered in the villages (Luana 2002).

Democratic performance refers to the transparency and practices that encourage participation and involvement of citizens in local policy, and it influences the incentives due to presence of civil society. The number of forums and public hearings is quite low and the draft budget is usually not published, contrary to the specifications of the law. NGOs are rarely involved in the local administrative structure<sup>4</sup> and usually there is no specialized employee with the function of informing the public about the activities and decisions of local authorities<sup>5</sup> (Luana 2002).

The current characteristics suggest that there is still room for improvement with respect to the future land management and law enforcement abilities of local authorities, in terms of both capacity and incentives. The land markets have good prospects of development, therefore in case the financial and human capacities of the local governments are improved and involvement from the part of the civil society is encouraged, the land management abilities will be satisfactory.

## **Conclusion**

In the present paper I offer an overview of the processes of soil degradation, change in property rights and decentralization. The general conclusion is that all these processes are interrelated and specifically soil degradation has been due to inadequate land management that has been in turn the result of the privatization and decentralization process.

The main reason for this lays in the inappropriate timing of these processes and since only currently most of the preconditions for efficient land management have been formed. The insecurity of property rights titles and the late adoption of the necessary laws to correct this aspect have been all influential on the one hand. On the other hand the decrease in the power of central authority to enforce these rights and the late improvement in the capacity and incentives of local governments to beneficially influence land management and property rights have been important factors as well.

Currently the legal preconditions for appropriate natural resource management in Romania with respect to property rights and local autonomy are formed. The necessary capacities, incentive structures of local authorities still need to be improved, while land markets have significantly developed. An important factor in this process will be the further development of land markets and thus the higher involvement of the market and private sector in the land improvement process. We can conclude that in the coming years there are prospects for better natural resource management, in case land market development, capacity and incentive improvement of the local government will occur.

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<sup>4</sup> Only 18% of the municipalities have at least one active NGO on their territory, and from the municipalities with NGOs, only 40 % have representatives in the local council (Luana 2002).

<sup>5</sup> In 76% of the cases there is no employee having the task of informing the public (Luana 2002).

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