

The commons and the cash economy: financialization and distance in the forest and pasture commons of the Romanian Carpathians

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The paper gives a description of the forest and pasture commons in the Romanian Carpathians and focuses on how processes of property formalization, bureaucratization and financialization create distance between commoners and their commons in the context of cash economies. It analyses a rather extreme case from the northern area of Maramureş of a commons that attempted to sell out their commons in the context of heightened dissatisfaction and local conflicts.

Intro and argument

During the last year I have visited 330 commons in the Romanian Carpathians as part of a large research project that I coordinated¹. I have found a variety of models of organization and structure, a variety of ways of using the commons, a variety of meanings. Among those, two communities in the northern region of Maramures, bordering Ukraine, holding over 3500 ha of commons each, held very prominent views of commons as cash. When I arrived the village of Dombo and asked around to speak to the president of the commons, first thing people asked me in a hopeful tone was "*What is your business with him, are you interested to buy the commons?*". The local desire of selling the commons reappeared recurrently in almost all the conversations I had in the area. The commoners, including the council members, showed disappointment in collective ownership and management, emphasizing hurdles of collective governance, and also manifested lack of interest in the use-value of the commons. This however is an exceptional case, the extreme example of how processes of bureaucratization and integration of the commons in a cash economy can lead to commoners' distancing and ultimately to their desire to sell out and dissolve the commons.

In other areas of Romania commons are regarded much more positively by their members, as some contribute significantly to improving community livelihoods, or generate significant income, and they are a source of pride and feelings of belonging. However, such positive feelings are often shadowed by bureaucratic and practical hindrances generated by a generalized misunderstanding of commons, severely limited by current legal and institutional categories and concepts. There is always a danger that, confronted with pervasive internal conflicts, the members would turn against the commons, such as the briefly mentioned example of Dombo.

I argue in this paper that increased financialization and more broadly the integration of the forest and pasture commons in a cash economy has distanced the commoners from their forests and pastures, to the point that the value of the commons can be reduced to an exchangeable stock that can be alienated anytime. Implicitly, other kinds of values cease to hold meaning.

I argue that the 'cash commons' opened up new opportunities for accumulation. In the process of formalization of property rights, which occurred more than one hundred years ago, the intended

¹ The project „Associative Environmentality: the Revival of Forest Commons in the Romanian Carpathians” based at Institute of Sociology, Romanian Academy, funding grant of the Romanian National Authority for Scientific Research and Innovation, CNCS-UEFISCDI. Project number: PN-II- RU-TE- 2014-4- 2865. More information: <http://romaniacommons.wixsite.com/project>

securitization of rights opened up avenues for commoditization. At present, the system of personal rights to the commons in the form of shares, instituted through formalization process in the second half of the 19th century and the beginning of the 20th century, and restored after the postsocialist property restitution in 2000, has negative effects. Coupled with increased bureaucratization of forest work, and out migration from the researched communities, it contributes to the distancing of commoners in three ways: 1) it increases geographical and temporal range from actual forest to the locals' houses alongside a chain of middlemen - loggers, transporters, bureaus and councils, which over-regulate and ultimately remove the direct access of commoners; 2) it forms a gap of interest and understanding of the entangled practices related to managing resources, which lead to sharp conflicts between the councils and the commons, to frequent accusations of frauds and ultimately to time and money consuming court cases; 3) distancing also means an abstraction of the land - forest and pasture - from its physical form into numbers, surface units such as hectares, and transforms the common land into cash dividends and commodities.

Commons in Romania – overview

Basic official statistics on forest and pasture commons of Romania, are either inconsistent or entirely missing. From my research, by piecing together information from different sources², it can be said that there are around 1700 forest and pasture commons located in the Romanian Carpathian Mountains, counting 873,000 ha of forest, 14% of the total forested surface of the country. This official figure is presented for 'traditional associative forms' by the Romanian Court of Accounts in a report from 2014³; other sources indicate other figures, such as 788,694 ha (year 2015), source official report filed by the Ministry of Forest and Waters⁴. In addition, the commons own and manage about 100,000 ha of pasture, which is a rough estimate⁵. The resources are owned and managed by over 400,000 commoners⁶. The area of forest commons has decreased moderately over the past 100 years, by around 22%⁷. Commons are located in the mountains, but also in hilly areas. The commons on the exterior arc of the Carpathians, in the historical regions of Wallachia and

²Such data sets include official forestry statistics, reports provided by the state court of accounts, databases with registered associations.

³ Consulted under the following link http://www.curteadeconturi.ro/Publicatii/Sinteza_FF.pdf in May 2017.

⁴ Consulted under the following link http://www.mmediu.ro/app/webroot/uploads/files/2016-12-16_Raport_Starea_padurilor_2015.pdf

⁵ Official data is absent in this case. Other articles (Sutcliffe et al. 2013) give 1.8 million hectares as an estimate of 'common' pasture, but they refer to publicly owned, municipality run common pastures, not to the independent commons.

⁶ This is an estimation based on survey in 2016, project .

⁷ According to Stinghe and Sburlan, Agenda Forestiera (Stinghe and Sburlan 1941), in 1929 there are 1.113.000 ha of forests in commons.

Moldova are generally larger, and the ones situated inside the Carpathian arc (the Carpathian Mountain range has a rounded shape forming a bent semicircle), in the historical region of Transylvania are smaller. Their size depends on historical conditions at the moment of their legal recognition, more than 100 years ago. There is a lot of confusion and ignorance today in Romania regarding the commons, stemming mostly from their incongruence with prevalent current bureaucratic and legal concepts and categories.

The forest and grazing commons of the Romanian Carpathians have been recently revived, after 60 years (1948-2000) of state ownership and governance during the socialist regime (1948-1990) and shortly after (1990-2000), with a marked emphasis on ‘restitution’, returning to the old peasant order. In the contemporary period, the restitution law 1/2000 obliged the commons to register and organize as associations, with individual members owning shares. The post-socialist laws did not introduce many innovations and explicitly required the use of the old by-laws.

The described commons are lands owned and managed mostly by communities and kinship-groups through independent community-based institutions, elected councils and presidents. They are called in Romania ‘traditional associative forms’ and from a legal point of view, are considered land in private property of ‘juridical persons’. The owned common forests are combinations of lower altitudes forests of beech trees, used as firewood, and coniferous species of commercial value at higher altitudes; some are spruce plantations, some are natural forests. Some of the pastures are located next to the village (*izlaz*), where locals’ cattle and horses are usually left to graze on their own, and some are remote alpine pastures (up to 2500m altitude) leased by large sheep owners, who often incorporate the village sheep into their flocks. Some of the land is included in protected areas, national parks or other forms of protection with restrictions to logging, for which the commons receive compensation. Compensations are stipulated in the law, however in practice they are not easily obtainable; commons have to sue the Romanian state for compensation and many do not have the financial capacity to hire a lawyer. Currently, strict state directives regulate the harvesting of forest, vested in forestry specialists. Each commons forest has a detailed management plan⁸, which states how much can be harvested, where, what kind of work needs to be done in each patch of the forest to allow for healthy growth and regeneration, according to scientific forestry conceptions. Recently, policymakers suggest the need of introducing pastures management plans as well.

⁸ The management plan is a large work, of more than 200 pages, containing tables and maps. It is done by private companies, accredited by the state. To acquire the plans is very costly, especially burdensome for small commons.

Participation and decision-making. The commoners elect a commons council (*consiliu*), usually formed of five members, and, among the members of the council, a president. They also elect an auditing committee (*comisia de cenzori*), formed of three members. Councils are temporary (2 to 5 years), and managing the commons is usually a side-job, poorly paid. In practice, the councils are frequently reelected, as few people want to take on such responsibilities. In order to maintain the institution of the commons in a legal sense, the council has to fulfill a lot of paperwork, administrative and financial obligations, land measurements and various registrations. Also, a large part of the institutional work is dedicated to dealing with forestry and environmental regulations, which are constantly changing and utterly confusing (Knorn et al. 2012; Lawrence 2009).

Commons assemblies. The participatory system of the Romanian commons is strong *de jure*. The general assemblies of commoners, gathered at least once a year, have to decide on the budget, on investments, on new members, on new rules introduced in the by-laws, and so on. The assemblies elect the council and the president, also a committee of auditors, who control the ruling committee. The assemblies are legally valid with 50% +1 of the members, or of the shares. In some cases, there is a risk that assemblies can never be legal, because of the delocalization of members. The right is inheritable and attached to the person; because of urbanization and emigration trends, many of the members do not reside in the commons' villages anymore, which makes it difficult to gather them at assemblies. There is no sanction for not participating.

The voting system for assemblies is by raising the hand. For assemblies gathered for election of councils, it is in some cases, secret vote. There are a few different voting systems; some are more equalitarian, others more monopolistic. Some of the commons (less than 30%) give every member one vote, regardless the number of shares. This system allows for equality, and monopolies are avoided. However, many commons vote according to number of shares. This system allows for monopolies, and it was preferred in the Argeș county, where historically a few families were more influential in the commons. In most cases the voting is in function of shares, but capped at 5% or 10%, so that monopolies are avoided⁹. The councils are obliged to announce the assembly two weeks or more in advance, in the local press, in posters placed at the town hall, at the churches. In theory, participation is well regulated; the by-laws usually mention procedures and sanctions. The way these rules apply *de facto* are problematic. In approximately 50% of cases or more, quorum is not met in the first assembly, and a second one needs to be convoked. Because of the inheritance system present in most commons, in which the children inherit the right after the parents' death, most of the current

⁹ An example, from Titești, Vâlcea county, southern Carpathians: everyone votes according to the shares, 1 vote for 5 shares. The cap is at 300 votes, meaning at 1500 shares, which means nobody can have more than approximately 5% of the votes.

participants are elders. In more than half of the investigated commons, not even 10% of the participants are below 40 years old. The assemblies are also strongly gendered, although women held rights, men largely dominate the assemblies.

Governance. The councils' work require a high amount of astute improvisation, bricolage and networking, in order to keep up to these bureaucratic necessities. I encountered several cases in which the councils were formed mostly of elderly people, with limited resources and experience in the administration field. Dealing with a myriad of other institutions, with changing procedural requests and expectations in their day-to-day administrative processes (Beunen and Patterson 2016), bolsters feelings of insecurity. Several interviewed presidents mentioned that they face a lot of stress and fear making mistakes. They fear that as the councils struggle with the complex bureaucratic requirements, they may cause significant problems or even bankruptcy.

By-laws. In the turmoil surrounding restitution in 2000, each commons had to formulate their own rules; the law (1/2000) indicated to take as a basis the old by-laws, and to adapt them to current realities. The old by-laws were from before 1948; they took shape initially in 1910, when a model by-laws was given by the state. After 2000, the local ad-hoc committees of 'reconstitution' were in charge with formulating the by-laws, as a requirement of legalization of the commons. The degree of freedom given to the local commoners was very high. Theoretically, the by-laws can be modified at any time, provided that the general assembly of commoners ratifies the changes.

Use, revenues, benefits. The commoners can use the land, and also derive monetary income from the common land, from EU subsidies for pasturing, from conservation compensations, from commercial logging, tourism ventures and other entrepreneurial activities. In some areas, the *commons* are oriented mostly towards providing individual revenues and cash dividends derived from commercial logging and subsidies. Research findings suggest that the individual material value derived from being a commoner are, on average, not significantly high. Sometimes commoners with larger shares can receive between 2500-3000 euro/year from commons dividends. However, this is usually the case with only one or two persons in a commons. On average, a commoner receives around 100 euro per year and also can graze animals for free and receive a quota of firewood at half price. Animal husbandry is generally a declining practice at household level, however firewood is very necessary, being the only fuel for heating and cooking. The commons also sponsors young families for building houses, offering up to 20 cubic meters of wood, they sponsor funerals of poor

families, village festivities and Christmas presents for school children. A few distinctive groups of commoners might have more benefit from the commons than the others. For example, in some areas, the large sheep owners are provided with free pasturing; in other areas, the local timber entrepreneurs are given preferential access to forests if they are commoners; in the touristic area of Râncă, members of the commons can lease the land to build touristic cottages for half the market price; in all of these cases, commoners can benefit from the common if they have the ability to do so.

In many cases, the commons provide community benefits, especially so in the Eastern areas of Vrancea, the region of Moldavia and the eastern Transylvanian counties (Harghita and Covasna). Here they contribute to reparations of infrastructure, public buildings, schools, and roads. Churches are often sponsored, as they are important community buildings, in which the commoners take a lot of pride and wish to invest. In the Transylvanian eastern areas commons also offer stipends for students, supporting education, and sponsor local groups of musicians, football teams and other youth activities.

In the next section I will give the contours of the historical development of the commons, which are essentially structuring the workings of current commons, centered on the process of formalization and making of individual shares.

Formalization in the history of Romanian commons

The Romanian forest and pasture commons were legally recognized as communities of landholders during the 19th and 20th century in the different historical provinces. In Transylvania, the delineation and recognition of commons, coupled with a formalization of personal rights, started in 1853: this process was a massive, centrally-driven policy by Austrian state and its continuator, the Austro-Hungarian Empire, which essentially transformed the previous entitlements of peasants to common lands. A similar process happened in the southern region of Wallachia, part of the independent Romanian Principalities (ruled for a long time by the Ottoman Empire) in 1910, a region under Romanian rule, covering the Southern Carpathians; a centrally driven operation of legal recognition and registration of commons, with roots in local customs of rights demarcations, based on lineages / kinship groups. However, in Wallachia, as well as in Transylvania grassroots processes of rights recognition ratified by local courts happened much earlier in connection to free peasants, *nemeși* or *nobles* in Transylvania and *moșneni* in Wallachia, a category of free autochthonous peasants that held land rights in the feudal period, as opposed to serfs. These free holders existed merely in

the mountainous areas, where landlords did not spread their influence to a large extent. The rights of free holders were based on (1) donations from medieval kings to communities of kin-groups of vassals and soldiers or borderguards, or (2) on rights of first settlers on unclaimed land, or (3) on redemptions (buying) of land by peasants from former landlords.

Various peasant groups were constituted as legal persons, following different rationales. In some areas, the villages were entitled to own land (e.g. *obști* in Vrancea region, South-Eastern Carpathians); in others, it was kinship groups, the descendants of initial settlers who were constituted as legal owners of the common land, with the exclusion of newcomers (e.g. *obști* in region of Wallachia); yet in others it was descent-groups formed of heirs of those who redeemed lands from the local landlords in the 18-19th centuries; or descent-groups of former military that were donated lands by medieval kings for whom they fought wars (e.g. *composesorata nobile* of Maramureș) or descent groups of former serfs who were given lands by the Austro-Hungarian Empire at the abolishment of serfdom (e.g. *asociații urbariale* in the Western Carpathians, *composesorata de foști iobagi* in Făgăraș Country, Southern Carpathians, or in Cluj county).

The commons were important for grazing. Forests were used for firewood and construction timber, for digging peat, also for grazing pigs in early spring (Botezan 2002; Csucsuja 1998). They were also an important source of monetary income, as some mountains were leased to outside shepherds and logging companies. In many cases dubious deals were struck between peasants, local elites and commercial entrepreneurs, leading to dispossession of the peasants of their rights to the commons (Stahl 1998; Iuga 1936). In order to manage the commons, starting with the beginning of the 20th century the user-owner groups were organized in legal entities, as self-governing institutions; they elected a management committee, elected a forest guard, organized village assemblies and devised their own by-laws, ratified by legal courts and registered. Regional by-laws were at times suggested as unified models and adopted. These commons were thus functioning as independent governing bodies, according to their own rules, with full recognition from the state, upon fulfilling legal procedures of registration. They were different from municipality owned land, which were in principle also for the common use of residents¹⁰, which was managed by the elected state-officials (mayor and councillors), without any say on the part of the community of residents.

It is essential that when they were constituted as legal persons, most of these groups had **allocated unequal undivided shares to the mountain lands** for households or persons. In Transylvania, associations of former

¹⁰ Called communal forest and communal pasture, with reference with the name of the territorial administrative unit called commune, comună.

serfs, *asociatii composesorale*, calculated shares on the basis of holdings' sizes. Differently, in the southern region of Wallachia shares were allocated on the basis of position in the lineage of the initial settlers, or on quantity of monetary contribution in the redemption process, etc.

Implicitly, in Transylvania shares to the commons were calculated for each person following class positions – taking into account sizes of agricultural holdings each peasant received a ‘quantity of entitlements’ expressed into ‘parts’, as in parts of a whole, say “Ion got 6 parts – so he gets to graze two sheep and the right to take 1 cubic meter of wood”.

In Wallachia, the allocation of shares followed a lineage-based algorithm: the pioneer settlers of the village (only the males, called *moși*, meaning old men, ancestors) were considered entitled to equal shares of the mountains; each of their heirs received equal portions of their father's share, according to the rule of partible inheritance. Everyone received a portion of the ancestors according to the genealogical tree¹¹. The villages and the commons started to “walk on ancestors”.

Thus, the delineated entitlements/shares or as they were called ‘undivided quotas’ (Rom. *cote indivize*), were expressed numerically in abstract manners, as quotas, parts, as *dram* (old cheese measuring units), keys, rights. Each part, or dram, or key, or right – entitled the commoner to a certain quantity of use – to retrieve a certain quantity of firewood from the forest or to graze a certain number of sheep on the common pasture. The shares were not individual plots of land. The division in shares did not mean the delineation of actual pieces of forest or pasture for individual use, but only allowed for a mathematical abstract model of calculating ‘portions’ of use and revenues.

The ways in which the formalization of rights structured the relations between the peasants and their commons was going to have profound impacts for many years to come.

Negative effects of formalization and inheritance-based rights

The survival of commons in the Romanian provinces in the modern period was due to the state recognition of commons through the property formalization process. Formalization is a common tool for states to

¹¹ Scholars argue that the reconstitution of genealogies contained a significant amount of fiction (Stahl 1998; Brezulescu 1905) that served the interests of the elites.

document, legalize, and make legible land rights on the ground. However, over the past 20 years property rights scholars have leveled sharp criticisms against rights formalization of land, assessing its ineffectiveness, despite the best of intentions (e.g. Benjaminsen et al. 2009; Bromley 2009; Plateau 1996; Shipton 1988). Literature has shown how formalization can cause opportunistic behavior, cementing existing inequalities, often deepening processes of social exclusion and paving the way to local and global land grabbing, by facilitating sales of land by the smallholders in the wake of financial hardships (Benjaminsen 2002; Borras Jr and Franco 2012; Ensminger 1997; Meinzen-Dick and Mwangi 2009; Peters 2004; Putzel et al. 2015; Toulmin 2009). Formalization programmes, through their processes of surveying and registering rights, can change the rights themselves, and it has been shown to be a cause of privatization of communal lands (Benjaminsen et al. 2009; Cronkleton and Larson 2015).

In the modern period, in the years following the liberal revolutions of 1848, in other parts of Europe liberal ideas of property took over state policies and commons were mostly enclosed and dissolved. At the time, timber was massively logged by foreign companies feeding the demands of industry in the West – a period of full swing capitalist expansion. Despite this, the Austrian state in 1853 and the Romanian state in 1910 tried to secure common property rights. Romanian and Transylvanian policies were quite protective of peasants' rights.

At the extractive frontier of empires – common property got formalized and recognized in a hybrid form – still common plots, but with differentiated individual entitlements and right to sell only inside the common, not to outsiders, as a form of protection against capitalist grabbers. However, the formalization of commons transformed the common rights, organized them in such a way that they were not fully communal, and resembled the stinted commons of England (Rodgers et al. 2010) or the shares-based commons of the Alps (Stevenson 1991). Imbued by liberal ideologies, the formalized property rights were personal rights, in the form of inheritable shares. Most commons were organized on unequal shares, with the exception of Vrancea region, where rights were equal and territory-based.

The personalization and inheritance of rights, coupled with tradability of shares had a range of effects.

First it generated **internal inequality**. The domestic elites could acquire shares and monopolize the commons. Most commons had a limit, a cap mentioned in their by-laws to how many shares can one person buy (at 50%, 10%, 5% or less), but this limit could be modified or removed through the decision of the general assembly. Such decisions, had someone expressed the desire to buy more, could easily fall prey to manipulation or factionalism. In areas where several families had traditionally more influence, such as the area of Argeș, such limits were removed before 1948, to free the way for elite capture of shares.

Internal tradability also paved the way to the **possibility of selling externally**, through various maneuvers. Also, partible inheritance (the shares were divided equally between male heirs, in some cases also women could inherit) meant the **excessive fragmentation of shares**, especially for families with many children. The fragmented shares came to be extremely small, of meaningless values.

Inheritance and personalization of entitlements meant the attachment of the right to a movable person, rather to an immovable household or holding. Thus, the context of rural exodus generated what I call the **delocalization** of rights. Village population numbers almost halved in the 1970s, the years of socialist industrialization, because of high levels of migration from rural to urban areas. The rights to the commons were personal rights and this meant that the restitution process after 2000, which emphasized the ‘return to the old order’, granted rights to descendants of locals who migrated out of the villages, sometimes to the neighboring city, and sometimes as far as Germany or the U.S., having nothing more to do with the land or with the uses of the commons. In these cases, these members receive a cash dividend and their right is disembedded from the actual use of the land or from any physical experience of the land. In the cases of commons where the benefits from the commons are not monetized, but commoners only share into portions of firewood, obviously the members of the commons residing in cities often concede their rights to their relatives who still dwell in the village. Delocalization also makes the participation process more difficult, as the necessary quorum of 50% for valid general assemblies is more difficult to achieve.

Inheritance of rights/shares often meant **exclusion of young people** from the decision-making process and a concentration of decision power in the hands of the elders – as sons or daughters will usually inherit only after the death of their parents¹². This situation appears as especially problematic when there is a younger person who would like to put effort in the management, become president or member of the council and he did not yet inherit the rights of his parents.

As commoners recognize the negative consequences of the inheritable-shares system, various commons devised mechanisms to counteract such effects, by changing the rules or informally encouraging the members towards certain decisions among siblings. Such mechanisms aim to 1) level up inequalities 2) increase the localization of shares, to 3) reduce the fragmentation of shares and 4) to reduce the possibility of internal commodification of shares.

- 1) to level up inequalities some of the commons:

¹² Sometimes the younger generation acquired portions of these rights by endowment when they married and even women as part of their dowry if there was nothing else to be given

- introduced equal votes in the general assemblies, regardless of shares; this is the case with approximately ¼ of the investigated commons;
 - increased the level of community investments, instead of distributing individual cash benefits/dividends
 - erased previous inequalities and started with equal shares after 2000; sometimes this was not an explicit intention to equalize, but simply an easier way of making sense of a very complicated system of inheritance after 50 years of absence; or in cases where old documents with previously entitled persons and their respective number of shares were not available.
- 2) to increase the localization of shares/benefits, coupled with decreasing fragmentation, some of the commons:
- do not admit the division of shares among siblings anymore, and the council advises the families to reach an agreement to favor the brother/sister who resides in the village; however, such agreements are sometimes difficult to achieve, as Romania featured acute conflicts concerning property rights on the occasion of successive property reforms, which led sometimes to violence and to long-lasting court cases among family members.
 - do not offer individual monetary benefits, only community benefits, and use-based benefits, such as use of pasture and quantities of firewood; however, as general assemblies usually have to decide upon the distribution of revenues, most members often push towards obtaining cash.
- 3) for reducing the commodification of shares and also as a mechanism of leveling inequalities, some commons:
- directly prohibited internal commodification by modifying the by-laws
 - give preemption right to the commons institution itself for buying the shares on sale; thus, the sold shares become a common asset (*avere comuna*)
 - made the rule that the commons first buys the shares on sale and then divide them up equally among all the members of the commons, so that nobody in particular can increase their number of shares through buying from someone else. This measure prevents inequality, and could also increase the localization of shares, as the ones most likely to sell out are the members who do not reside in the village anymore.
 - If there are more interested buyers, they get to buy the shares on sale in equal proportion. This measure is meant to prevent to some extent the monopoly of shares, but mostly transactions occur in cases where one buyer already has an agreement with the seller.
- 4) to allow the younger generation to participate, some commons
- favor a system of donation between parents and children

The commons and the cash-economy

The formalization of entitlements to the commons and the apportionment in individual shares was justified by the context of capitalist cash economy of forest and pasture leases from the 18th century onwards. Money was omnipresent in transactions of various types. Peasants redeemed their communal lands from landlords with shared payments. Shepherds from neighboring regions leased pastures from locals and the rent money had to be divided up among the landholders. Land was rented out for placing of the water-activated sawmills (for example the commons of Dragoslavele, Argeș county, was collecting rent on the commons from up to 50 sawmills installed on its territory around 1850, according to the local monograph Mogoș, Irimia, and Frigură 2014). Later on towards the end of the 19th century, leases of forest for commercial purposes by foreign companies would become a major point of conflict, leading up to the centrally-driven formalization of commons from 1910. Such monetized operations required that payments and revenues, the ‘revenue of the mountain’ (*venitul muntelui*) be divided among entitled peasants in ways that were often subject to conflicts and feelings of injustice. The apportionment into shares often used calculation algorithms that used abstract values, estimations of prices of wood, prices of cheese, prices of land – more generally ‘prices’ and cash.

Thus, one way through which cash operated in the commons was the distribution of revenues, of cash dividends. Once the use of the common was replaced with its exchange value, and not tied to a household, to a holding in the village, the shares also became tradable, became a sort of stock that could be exchanged on the local market of commons’ shares. Many such transaction occurred before 1948, and led to the dispossession of the poor and the accumulation of shares in the commons by the wealthy domestic elites (Iuga 1936; Stahl 1998). As mentioned, the by-laws contained limits to how many shares can one person buy, but this could have been removed by the decision of the general assemblies. Some transactions were not malign in their nature. For example, in some areas large sheep owners needed to keep their sheep on common pastures; they would hold a few shares in the commons, that would give them the right to graze a certain amount, but not enough for their entire stock; thus, they needed to buy annually a number of shares from their fellow villagers who held spare shares. However, most transactions happened definitively, and peasants would sometimes sell their shares for good in exchange for a few drinks of alcohol at the local bar (Brezulescu 1905; Stahl 1998).

The transactions were sometimes recorded in legal property registers, but such inscriptions were random. All in all, a lot of confusion and arbitrariness existed in the situation of shares. Transylvania theoretically required and kept more up-to-date mandatory records in the public land registry, also concerning

transactions. However, I found numerous cases in which judges confronted with putting order in local commons' affairs, reached the conclusion to erase the system of shares entirely and reorganize the commons on equal principles, so as to relinquish pervasive mistakes and misunderstandings (for example the case of a judge in Pui region, Hunedoara county in 1940, in Vasile forthcoming).

This whole system was reinstated after 2000. Currently, the distribution of cash dividends from commercializing forests and pasture subsidies makes it possible that those who do not have any actual use or physical relation to the commons can still benefit and receive their cash stock, through a bank transaction, without being involved. Sometimes persons born and living in other countries, who might have never seen the land or known the council members or their fellow commoners receive large amounts of money, simply because they are the heirs of former commons members, they are drawn in the genealogical tree of the rightful descent-group.

The cash dividends raise a series of legal problems. Theoretically, the commons are registered as non-profit associations, which implies that cash-dividends do not have a legal basis. This detail is however overlooked by other state institutions, because they are aware that commons are not entirely associations, but some imprecise approximations, and there seems to be a tacit understanding that there is certainly a profit to be made, and taxation to be applied. Another problem has risen when commoners declared their cash-dividend as a revenue; the state applied retroactive taxation on the commons' cash-dividends and many commoners could not afford to pay such heavy taxes. Taxing the commoners for revenue came on top of taxing the commons institution for profit. And, as the commons institution and the commoners actually overlap, it means that there is double-taxation on cash-dividends, which makes the commoners in fact lose money. In Vrancea region, where this problem appeared as very acute, a few commons decided to avoid cash distribution and instead they bought and distributed staple products, such as flour, rice, sugar, sunflower oil, which became subject of barter between the commoners and between commoners and their relatives.

Currently, selling and accumulation of shares by local elites happens seldom. Shares in the commons are not usually perceived as a valuable investment. However, in rare cases, external corporations have vested interests in the land, either for the mineral waters on it, or for other commercial purposes. In such cases, although the law stipulates that external buyers cannot acquire rights, most by-laws, in Transylvania usually, mention that a stranger/company can become a commoner if they participate in the commons/donate to the commons a piece of land neighboring the commons (1 hectare in the case of persons, 10 hectares in the case of companies). In principle, this is a positive issue, meant to increase the common patrimony and to allow

people with small individual plots to benefit from the commons management. However, this was usually used as a point of entry, as the Achilles' heel, in order to monopolize and destabilize common property. There are a few cases I came across in the country where an international timber company bough out a few commons, a mineral water company monopolized the shares of one commons rich in mineral waters, also a green grabbing NGO monopolized the shares of a commons for conservation purposes, among other examples.

In the next section I will describe a case where the commoners actually want to sell their commons, share by share. In this case it becomes visible how the apportioning of shares, their attachment to persons, and their monetary valuation – as structural factors, coupled with mistrust and conflicts in the community, generated large amounts of confusion in people's understanding of collective property, frustration with the common character and a strong desire to divide up the shares or simply sell out entirely.

When commoners want to sell their commons: case study in Maramureş county

Maramureş county is situated in the northern part of Romania, historically part of the former Austro-Hungarian empire. Nowadays in Maramureş we find 109 commons, with 30,101 hectares of forest¹³, amounting to 50% of the privately own forests in the county, and approximately 2000 hectares of pastures for which the commons receive subsidies¹⁴. The forests are mostly broadleaved, beech forests that were heavily harvested during the socialist years.

The commune of Dombo¹⁵ is located in the northern side of the Maramureş county, on the border with Ukraine. The locality is rather well-off. Half of the locals work abroad; they send remittances and invest money back home into grand houses and cars. Unlike many other commons in the country, I found here a strong desire of locals to disassemble the commons and sell out their shares.

In the **northern part** of Maramureş we find what are called the noble compositions, the commons formed as a heritage of the noble families of Maramureş, descendants of *cnezi*, free landlords during medieval times. In the cadastral files from 1932 the *composition* of Dombo has 4600 ha. In the course of time, before 1948, the church divided its part from the commons, counting 60 ha, as did other individual members. Also, the current members did not reclaim the pastures. Today the commons reclaimed 3800 hectares, In the whole

¹³ Data available from Forestry Guard (Garda Forestiera) office.

¹⁴ Data available from local APIA office.

¹⁵ The name is a pseudonym.

county the property restitution went very slowly and there were a lot of restitution conflicts, which took the form of ongoing lawsuits.

The features of the local commons, called the Noble Composseorate:

- Surface 3800 ha
- Members 1130
- Ratio average 3,4 ha/member
- Logging quota 7000 m³
- Ratio average 6.2 m³ wood /member

The forest of Dombo commons is perceived by the council members as 'low production quality'. It is preponderantly deciduous, 'young' forest and accessible. The northern part of the area is well known for being a focal point for forest industry. It is home to big local companies, and it featured a lot of conflicts over resources. The Maramureş Mountains were the target of illegal logging accusations, even inside protected areas, and fights between local factions were reported frequently. The annual allowable quota for harvesting in the Dombo commons is currently 7000 cubic meters. Approximately 900 ha, 24% of the whole surface, are under protection in the Natural Park Maramureş Mountains, which means restrictions to logging. The limitation is no longer a problem, as state monetary compensation can now reach up to 200 euro/ hectare for protected areas. The *composseorate* is currently suing the state in order to receive the compensations. The 'success fee' for the lawyer is as high as 10-15% of the compensations' value.

From the whole amount of harvested wood, only a small part, 80 cubic meters go towards local households as firewood. The amounts of wood that get harvested for the commoners' necessities require that specialized personnel, from a logging companies actually logs the wood. It is not legally possible that the commoners themselves harvest the wood and transport it with their horses and carts, as they are not authorized loggers. Thus, the Dombo council makes the commoners pay a certain sum, half of the market price, for the harvesting, with which to pay the professional loggers. This payment on the part of the commoners raises a lot of discontent, not only in this area, but all over the country. The commoners would like that their rightful firewood be free of charge. Usually, local dwellers have their own small forest plots or a few trees on the pasture behind their households, from which they can cut and use for firewood. This is more convenient. Or they strike cheap deals with local wood carriers, which bring them the desired quantity of logs directly in their courtyards. Most of the good quality timber however is sold to local forestry entrepreneurs, professional

loggers who further sell to big international sawmilling corporations. Thus, the value of the commons is less a use-value and mostly exchange-value in terms of cash revenues.

The distribution of shares in the commons is fairly equal. There are no members who hold a large part of the shares. Only 5-6 members hold around 20 hectares, and 30% hold less than 1 hectare. The by-laws do not currently limit the amounts of shares someone can acquire.

Benefits from the commons are distributed as cash dividends, and they amount to approximately 12 euro/hectare, a small amount compared to other commons in the area. Many commoners believe this amounts to less than half of the total revenues, which is viewed with suspicion and frustration. They do not believe that tax, fees and other running costs sum up to such high expenses. There are also 40 lawsuits in which the commoners are suing the management board and the board is paying the lawyers' fees from the commons' revenues. This happens because the law sees the board as the institution; thus the commoners sue the institution and end up paying from their own money somehow.

They also suspect that the management board pockets money through various schemes, trespassing legal boundaries. On the other side, the management board is also complaining about the attitude of members, and their ignorance about how the commons works collectively: "*Many members come to ask where is their forest; they ask me to give them the forest, [i.e. the land], and not the money from harvesting, they do not understand our responsibilities as administrators.*" (*Vice-president of Dombo commons, September 2016*). The council members themselves perceive the commons as a nonviable form of property and would like to give up their management role, but complain that nobody wants to take on their responsibilities. Usually, the *composesorate* assemblies are very poorly attended. Less than 100 members attend the meeting from over 1000 in total. The delocalization of this commons is high, as 50% of the total members are no longer locals.

The members show very low sense of attachment or pride in the commons. When I asked about the meaning they attribute to the commons, many commoners referred to their material dissatisfaction and feelings of injustice:

"The commons is a pain in the ass. I get from it 10 times less money than I accumulate from my own individual forest, it something unjust I suppose. I would like to be divided among us. Even if I get only branches to weave baskets from it, but I know it is mine " (man, 70 years old)

"The commons involve problems. The council asks us to pay for the firewood quota from the commons. What is that? You put a price on my own wood from my property? We are waiting for a buyer." (man, 74 years old)

"The commons is something that we don't know where it is; we know the whole lot, but precisely where is my piece, I don't know. Something that we not benefit at all. We know that the forest is being cut, that is all.

(woman, 45 years old)

Although in the area the existence of noble *composesorates* is related to noble ancestry of local dwellers – in other areas this often nourishes emotional local discourses about identity, heritage and belonging (Vasile 2015, 2007) – but in Dombo this is a feature that is seldom remembered or invoked by the members. The *composesorate* seem to be unimportant on all levels. By contrast, members hold a strong sense of individual property, strong attachment and possessiveness towards their individual plots and thus would like the *composesorate* land to be divided up, so to add up their share from the commons to their own estate (*avere*). Social status and material wealth appear to be very important in the area and subject to intense competition, as can be seen by opulent two storey houses with complex outside ornaments. People from neighboring areas describe the people from Dombo area as hot tempered, pervasively mercantile and individualistic.

The *composesorate* has had an offer to sell all of its shares to a company that intended to plant high-yield tree species, and to produce energy based on biofuels – a corporate enclosure. They took advantage of a Almost all of the members intended to sell their shares entirely (out of 1130 may be 30 members did not agree to sell their shares), and empowered the council with letters of attorney to carry on the transaction. However, as the transaction was starting to take shape, the investor encountered complex bureaucratic hurdles - numerous unresolved lawsuits between the commons' members and the council, also the land was not fully titled, there were a few steps left towards full recognition of ownership and inscription in the public cadastral registries. Also, it was not clear what was to become of the commons, if it will be entirely dissolved, or if it continued to exist with a limited number of members. The by-laws mention that in the case of any transaction, the commons keeps a fee of 5%. As the entire value of all transactions would amount to over 6,000,000 euro, who exactly would receive the substantial fee of 300,000 euro, in the name of the 'commons' that was to be dissolved? So, in the end, the company renounced acquiring the land, to the disappointment of all members. Currently the commoners are interested in finding another buyer. Anticipating up to 10,000 euro per family if they sell out their share, the commoners complain bitterly about the level of present revenues from the forest commons, suspecting corruption and extortion on the part of the commons council. All sorts of complaints usually motivate the desire to sell the commons. Some complain that they are old, so they would like to get some substantial benefit while they are still alive; others complain that they are poor and would like to offer to their offspring a new house; most would like to enhance their houses, buy furniture or renovate.

Conclusion

I have shown in this working paper the example of a commons that is still a commons by name, but in many senses it lost its significance as a common land and enterprise. While there are a number of such commons in Romania, twisted in the communal spirit, Dombo people are fairly extreme in their individualistic understanding of the commons and in their unabashed desire to divide up the commons and sell it. This extreme case shows the dangers to which other commons are exposed. Ransacked by suspicion, accusations and ongoing lawsuits, the commons as an unfulfilled promise feeds the commoners' desire of personal accumulation. Stripped of symbolic and emotional meanings, the commons' current value is perceived mostly in terms of cash. People compare the cash dividends that they receive with the benefits they obtain from their individual property plots. Thus, the benefits from the commons being lower, they blame the council for pocketing money. They also compare the money they receive now with the potential gain from selling their share. This comparison turns the commons into something that would achieve its value only through its destruction. In its current form, as something that cannot be fully possessed, that is outside the tangible grip, and that depends on other's control, it is not satisfactory. These comparisons enabled by economic valuations in the universal measure of money generate feelings of injustice, which translate into costly lawsuits.

Deep structural factors contribute to such dangers. First, the way in which the commons were organized into inheritable shares through the process of formalization occurred in the 19th and beginning of the 20th century. Meant to protect the commons and align them to modern liberal conceptions of property, formalization forced the Romanian commons into a 'crossbreed'. The bundle of rights thus included communal arrangements and personal rights, inheritable and alienable to some extent. This generated delocalization of commons, increased inequalities and excessive fragmentation.

The process of formalization and the making of shares were intimately linked with the cash economy and issues of financialization. The very necessity of recognizing and recording peasants' rights came because the commons were involved in the capitalist cash economy of leases, rents and profit-making. In the process, desires of equity and protection overlapped with desires of accumulation and disruption, in uneasy coexistences. Moreover, conceiving and calculating shares was only possible through expressing value in cash.

Legal-bureaucratic systems successively failed to capture the spirit of the commons. In Romania currently, commons obviously have commercial activities, but they are recorded as non-profit associations. Cash-dividends are not fully legal, but they are double-taxed. Increased bureaucratization, enmeshed with the cash economy in processes of taxation, financial accounting, processes of production, logging and forestry, lawsuits, generates complexity. Complexity produces suspicion on the part of the commoners towards the board, as such complexities can mean murkiness in the process of managing the commons. People see murkiness as ripe for infringements. However, bureaucratic murkiness also prevented the selling of the Dombo commons to happen.

Such processes distance the commoners from their commons, both physically and symbolically. Physically, by removing them from the land and from effectively participating in the decision-making process. Symbolically, by reducing the value of commons to cash and leaving the commoners with little other than shares of an underperforming business.

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