

THE LAND INVENTORY IN THE CONTEXT OF IMPLEMENTING THE 165/2013 LAW

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Abstract: *The main objective of this paper is to establish a unitary work flow, which describes the responsibilities of each member of the local commission for real estate inventory. At the same time it intends to present necessary stages and operations performed by specialist surveying in the inventory process, the necessary data for this, and the problems encountered during project implementation.*

Keywords: *inventor, cadastre, property, restitution.*

1. Introduction

In a context in which Romania, for years, has been condemned to the European Court of Human Rights for breaching the right to private property, restitution legislation of the assets confiscated was radically modified by the Law no. 165/2013 on measures to complete the restitution in kind or equivalent of real estate abusively confiscated during the communist regime in Romania, published in Official Monitor no. 278/17.05.2013.

Property titles issued under the *Land Law no.18/1991*, in a large proportion contain multiple misspellings of names of owners, especially cadastral identifiers (numbers of cadastral sectors and of the parcels use categories of parcels, neighbors etc. Such a situation creates obstacles in making the entry in the Land Register of properties, requiring a revision of property titles, either legally through the court or administratively (Hogaș, 2002).

The main purpose of this article is to define a unitary workflow in land inventory for the local committees organised in each administrative unit, according to Law no 165/2013, in order to identify and measure the lands in each unit, for each category of land to be inventoried. At the same time, it is considered the establishment of work stages and operations to be undertaken by the specialist in topography, a member of the local committee of inventory.

For the accomplishment of the main project objective, there have been considered both the legal regulatory procedures, highlighting the main laws which control the system of real estate inventory as well as abiding the Norms to enforce Law no 165/2013 (Cârdei, 2013).

The study area is Holboca village, in the south-east part of Iasi county and it has an area of 5002 ha. This paper has been conceived to fulfil the tasks of the specialist in topography, as they are mentioned and imposed by paragraph 6 of Law 165/2013 for Holboca administrative unit.

2. The members of the local committee for land inventory

The local committee for land inventory is formed according to the order of the prefect for each administrative unit. The responsibilities of the local committee members are established according to the specific tasks provided by the enforcement norms for Law no 165/2013. In what follows we present in detail the inventory process and the responsibilities of each member of Local Committee for Inventory.

a. *the representative of the prefect's office* calls the committee for meetings every time there is required, thus the inventory process should be accomplished within the terms established by Law no 165/2013.

b. *the mayor of the administrative unit* provides the logistics and necessary work facilities for the local committee.

c. *the secretary of the administrative unit* provides the appendix and the decisions made by the county committee on land funds regarding the validated areas, making clear which are the regions for which there have been issued property titles, ownership certificates.

d. *the topographic specialist* is responsible for identifying the crop lands and other land parcels according to the existing cadastral map, to digitize the photogrammetric mapping, to show the limits of the fields in the inventory in a closed polyline, in the 1970 national stereographic system of recording in dxf format.

e. *the cadastral office representative* guides the local committee from the technical point of view and provides the following cartographic products in digital format.

3. The responsibilities of the topographic specialist

In order to accomplish the targets, the topographic specialist undertakes three different stages: documentation and information retrieval, make the field measurements and process data and elaborate the appendix according to the requirements of Law no 165/2013.

A. Gather all the information on the lands which are object to inventory.

Information provided by Law 165/2013 are the the following:

- the Database and Digital Archive for Property Titles - DDAPT;
- the inventory of public domain of the territorial administrative unit;
- the inventory of private domain of the territorial administrative unit;
- the information form by the authorities and public institutions which administer the lands of public or private property of the state.
- the orthophotomap, edition 2010.

All such information collected from institutions was incomplete, or was wrong, so was needed to take each of them and restore the database.

Information required to complete the project:

- agricultural register 2013;
- owners register and parcel (1989);
- property titles which have not been found in DDAPT;
- others ownership documents;
- site plans and cadastral delimitation;
- documentation executed according to HG 834/1991 and approved by OCPI;
- the inventory of private domain redone according to reality.
- transposition of analog information received from the authorities and public institutions which administer the lands of public or private property of the state, into digital format;

- the cadastral plan at 1:2000 and 1:10000 scale, edition 1989;
- digital cadastral plan, elaborated in 2013, through the topographic measurements performed with GPS technology and modern total station.

The data was given by the commune secretary together with the local committee of land funds as well as by the authorities and public institutions which administer the lands of public or private property of the state. With all this information was made a unitary database that includes information about all lands from the Holboca commune (Table 1).

Table 1 - The database of the Holboca commune

+ Options			Cheie	Nr. Tp	Proprietar	Parcela	Suprafata	Tarla	Int/Ext	Cat Fol	Localitate	Parcelar	Verif	Observatii	
<input type="checkbox"/>				7915	69309	BACAUANU P AUREL	752/20	12100	46	1	1	Holboca	222	V	
<input type="checkbox"/>				216	69217	COZIANU D VASILE,PAUN EUGENIA,ICHIM MARIA	752/21/1	7073	46	1	1	Holboca	223	V	
<input type="checkbox"/>				2384	69451	FILIP I. GHEORGHE	752/22	15893	46	1	1	Holboca	224	V	
<input type="checkbox"/>				6592	69031	FILIP I DUMITRU	752/23	4961	46	1	1	Holboca	225	V	
<input type="checkbox"/>				210	69216	LEAHU D GHEORGHE	752/25/1	9238	46	1	1	Holboca	226	V	
<input type="checkbox"/>				6575	69028	FILIP I DUMITRU II	752	11878	46	1	1	Holboca	226	V	
<input type="checkbox"/>				6601	69033	IONITA GH ELENA,LEAHU D GHEORGHE,TIBICHI MARIA,DUM...	752	1400	46	1	1	Holboca	227	V	762
<input type="checkbox"/>				8005	69331	JITARU P DUMITRU	752/27	7560	46	1	1	Holboca	228	V	
<input type="checkbox"/>				7160	69906	AMIHAESEI V. GHEORGHE	752/28	5683	46	1	1	Holboca	229	V	
<input type="checkbox"/>				253	69227	CHIORESCU P EUGENIA DRAGUSIN T EMIL	752/29/1	12600	46	1	1	Holboca	230	V	
<input type="checkbox"/>				2994	69651	COZIANU C. CONSTANTIN	752/29/2	2614	46	1	1	Holboca	231	V	
<input type="checkbox"/>				6475	68994	CIOBANU VASILCA,CIOBANU VIOREL,CIOBANU ELENA,MOLDO...	752/85/3	10592	46	1	1	Holboca	232	V	
<input type="checkbox"/>				7183	69915	CRETEANU ANICAA,ROMANESCU ZAVASTITA	752/86	12500	46	1	1	Holboca	233	V	
<input type="checkbox"/>				2853	69596	NEDELCU I. PETRU,NEDELCU AGLAIA SAUCIUC AURICA	752/62	18000	46	1	1	Holboca	234	V	
<input type="checkbox"/>				2371	69444	BOBOC C. MARIA	752/2/34	7600	46	1	1	Holboca	235	V	
<input type="checkbox"/>				6485	69003	TUDORACHE C MITRITA	752/62	6300	46	1	1	Holboca	236	V	69618

Using this database were made parceling plans for each field from unincorporated area, and digital cadastral plans for of all 7 villages.

Figure 1 – Parceling plans of the Holboca commune



A.1. Inventory of the restituted lands

The measurement specialist will make an inventory of the land restituted in property titles or ownership certificates first in the cultivated land area, then in the cadastral district, based on the information provided by the administrative unit secretary and using the IT application for the property titles.

For the property titles issued in the administrative unit under inventory but placed in another unit, the specialist will fill in a different table, as a copy of this document and hand it in to the measurement specialist of that particular unit where the inventory of those lands will be undertaken.

A.2. Inventory of the non-cultivated lands which cannot be restituted

The measurement specialist identifies and makes an inventory of the non-cultivated lands (river banks, roads, channels, railroads, so on) which cannot be restituted according to the updated inventories of the public and private goods in the unit, provided by the secretary as well as to the information given by the authorities and public institution regarding the non-cultivated lands which cannot be restituted but are administered (river banks, channels, railroads, so on) including the official papers proving the property/administration rights. In order to properly identify these lands, the authorities and public institutions have to send to the local committee all the information they have on the lands which are subject to inventory (article 8 in the Norms).

A.3. Inventory of the cultivated lands from public or private property, with or without investment and administered by different authorities or public institutions

The State Domains Agency (DSA), according to the Norms, is obliged to provide the committee with all the dimensions and limits of the fields it administers, identified as closed polylines, according to the national system, in dxf format, including the papers which prove the administration right.

Other authorities and public institutions (such as Forestry Office in Iasi, Iasi County Council, the National Company of Railroads) should provide all the information they have on the lands, cultivated, with or without investments in the public or private property, held under administration, including the papers which prove the right to administer or own them.

A.4. Inventory of the cultivated lands in the private or public property of the state, with or without investments and administered by research institutes.

In Holboca commune there is one research centre, namely the Research and Cattle Breeding Centre which has the obligation to provide the committee with all the information they have on the agricultural lands, with or without investment from the public and private property, under administration, including the papers to prove the property/administration right.

A.5. Inventory of the forest lands owned by the state

Hence, the National Forest Service - Romsilva, according to the Norms, has to provide to the committee a presentation of the forest lands owned by the state and found under their administration, highlighted on environment maps in 1:5000 or 1:10000 scale, as scans in .tif or .jpg format. For the forest lands which are not included in restitution, the National Forest Service - Romsilva will mention the surface and the legal grounds for being excepted. In a system of GIS mapping the information provided by the National Forest Service – Romsilva, the measurement specialist will identify and place the lands in their cadastral district.

A.6. Inventory of the lands occupied by crops

The administrative unit secretary gives to the measurement specialist the situation of the cultivated lands in the village, mentioning the private or state ownership titles which might be subject to restitution.

A.7. Identify and locate the lands in the inventory

The measurement specialist will identify and locate all the categories of lands previously inventoried, in their cadastral district, showing their position on the photogrammetric records, then these points will be correlated to the measurements they made during the stage of on site work in order to establish the borders of the cadastral districts and cultivated lands. For this purpose, the measurement specialist will make materials using the photogrammetric records, highlighting the lands according to the inventory categories.

For the lands in public or private ownership with investments, the measurement specialist will estimate the surface of the investment by going to the spot, during the stage of on site work.

B. Measurements during the on site work stage

In order to establish the borders of the lands under inventory, for each category mentioned by the law, there has been done on site work and measurements for all the elements present on the land: roads, railroads, channels, dams, so on.

The borders of the cadastral districts have been established according to the real situation. As initially the borders of the cadastral districts had been established by the National Centre for Geodesy and Cartography by vectorization, based on the photogrammetric records since 2005-2010, on a 1:5000 scale, the measurement specialist will establish these borders considering the real situation and proper measurements.

The measurement specialist will establish the borders of all the cultivated lands on site and will identify and correctly include the land parcel in the cadastral district. At the same time, he will identify by topographic means on site the necessary and sufficient elements (roads, railroads, channels, waters, forest edges, so on) required to split the lands and correctly render in digital format, on the photogrammetric records, the borders of the lands inventoried during the first stage.

C. Make the appendix and the overall reports

The norms for the enforcement of Law no 165/2013 include 9 appendix and overall reports which cover all the lands in the inventory, as follows: reserve of the local committee; agricultural lands within the administration unit, in public or private ownership, with or without investment and administered by public authorities and institutions; forest lands owned by the state; agricultural lands administered by research institutes and centres, with or without investment; pasture lands; other lands described as available for restitution; agricultural and forest lands which might be the object of property title restitution; agricultural lands, with or without investment, under the public or private ownership and administered by authorities, public institutions and research institutions or centres; the graphic addendum showing all the categories of lands mentioned in article 6, paragraph 2, Law no 165/2013.

Using all this data there have been conceived the appendix mentioned in the Norms for the enforcement of Law no 165/2013. The tables were conceived in collaboration with the specialized staff from Holboca commune hall and the graphic addendum was conceived by processing the descriptive data on the photogrammetric records. The final results were presented to the Local Inventory Committee, at the same time presenting in details the methods used and the project results.

Appendix no 7 includes all the lands which may be subject to reconstitution ownership right, representing the goal of all previous stages.(Table 2). In this table we see that the retroceded reserve of the commune is about 418 ha, which represents 8.35% of the total area of the commune.

Using of appendix no 7 was made the graphic appendix no 9, required by the law. In the drawing were represented by closed polylines land that belongs the appendix 2-6 and retroceded reserve (Appendix no 7, column 2) (Figure 2).

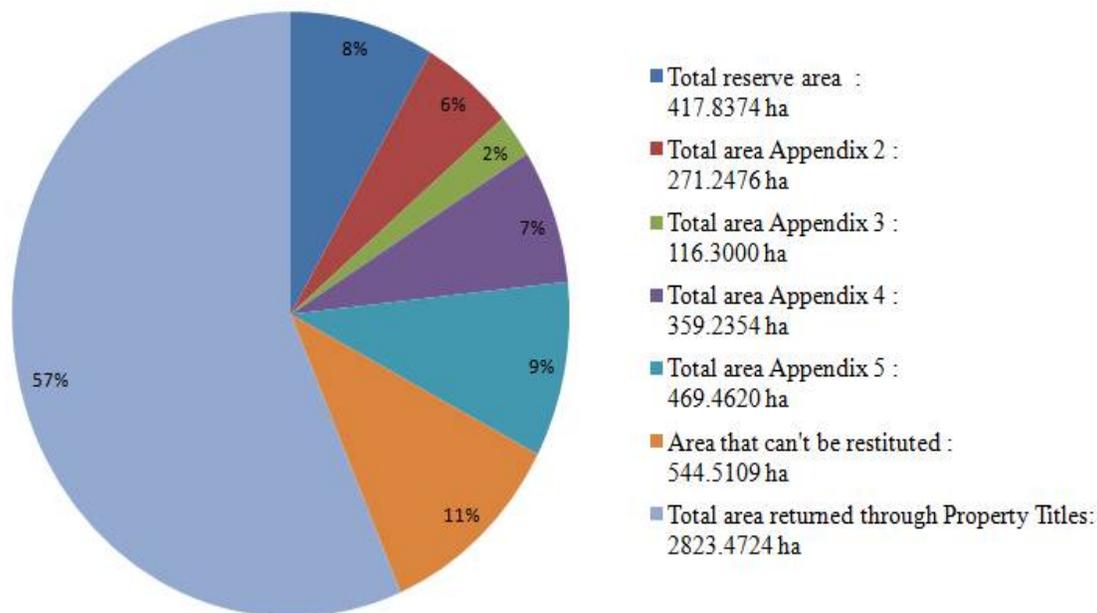
Table 2. Appendix no 7

County
Administrative - territorial unitIASI
HOLBOCAAppendix no 7
from norms

SITUATIONS *
agricultural and forestry land which may be subject to reconstitution of the ownership right

Nr. crt.	No cadastral sector	Surface retroceded reserve ***	Total surface Appendix 2	Total surface Appendix 3** - ha -	Total surface Appendix 4 - ha -	Total surface Appendix 5 - ha -	Total surface Appendix 6 - ha -	Total surface Col (2+3+4+5+6+7) - ha -
0	1	2	3	4	5	6	7	8
1	0	0.0000						0.0000
2	1	46.2501	148.7500		359.2354	84.1674		638.4030
3	2	45.0816				21.0690		66.1506
4	3	7.4671				35.2996		42.7667
5	4	31.5861						31.5861
6	5	80.5752				32.9923		113.5675
7	6	0.0000		116.3000				116.3000
8	7	25.6345	8.5400					34.1745
9	8	28.1553	47.1514					75.3067
10	9	2.4609						2.4609
11	10	10.9944	2.0334					13.0278
12	11	49.5525	64.7727					114.3252
21	20	0.0000						0.0000
30	29	0.0000						0.0000
Total UAT:		417.8374	271.2476	116.3000	359.2354	469.4620	0.0000	1634.0824

Figure 2 – Graphical representation of the areas from Holboca commune



4. Results and discussion

a. The layout and borders of the cadastral districts were taken from the information provided by the cadastral office, later adjusted by digitization on the photogrammetric record under the following circumstances:

- according to the water limits, as provided by Water Administration Office of Iasi county in dxf format;

- according to the digital layout of the lands owned by the Romanian state and administered by the National Railroad Company;

- according to the layout of the forest lands. Hence, the borders of the districts indicated by the Cadastral Office have not been correlated to these plans. Under these conditions, there could have been made many mistakes and confusions about the borders of the forest lands or pasture lands (agricultural lands) included in the forestry layout. Also, there have been corrected several errors in seeing different access roads throughout the forestry lands, access roads which can be seen on the photogrammetric records but are not visible in the inventory of roads in the forestry plans.

- according to the average width of the country road DJ 249A and the safety area according to the cadastral documentation received for the registration in the land register.

The surface of the parcels was estimated according to the borders and limits seen on photogrammetric records and the measurement done on site (roads, fences, channels, so on).

b. Establishing the areas which are not subject to restitution

The areas which are not subject to restitution have been delineated in drawings and they include the following lands:

- those related to water flows, as they have been provided in electronic format (format dxf) by the Water Resource Management Department, Iasi (WRMD). There have been discovered errors in the layout provided by the WRMD (areas covered by water which had not been included in the polygons – Orzeni spring), they had been sent to the attention WRMD due to the careful approach of the commune hall, the errors have been corrected and later confirmed by WRMD.

- those related to the railroads and their areas, as they have been provided by the Area Railroad Agency – Iasi in an .dxf file. As regards the surfaces owned by the Romanian state, we have to mention that there have been noticed overlapping areas, but the whole surface (overlapping or not) was included in the polygon for the areas which are not subject to restitution.

There have not been registered in the category of lands which are not subject to restitution other areas which are close to the commune or are privately owned, as confirmed by different types of property titles: concession, sale, legal court decisions, so on, about which we do not have any information.

c. Positioning of the private properties

The private properties registered under property titles have been approximately positioned using centroids representing the area written in the document and the number of the document, in separate lists for the forest lands and other categories of use. After the study of these characteristics is finished, there has been established the value of the land and it is written in column 4a in the addendum to Law no 165/2013. The data on the lands with forest vegetation were graphically correlated to the limits and borders in the mapping documents and other drawings (plans in tif format) provided by the Forestry Agency Iasi. The positioning was established according to the information written on the property titles and where the information was not sufficient, the positioning was done with the help of the staff working for the commune hall, the secretary, the deputy mayor and the mayor and his counsellor.

The information on 84 property titles has been excluded as they had been annulled in court sentences or because there are other property titles already issued and the information was confirmed by Holboca commune hall. There have not been taken into consideration the annulled or doubled property titles for the establishing of the lands subject to restitution.

6. Method of determining and positioning the areas in reserve, subject to restitution

Column 6 in addendum 1 to Law no 165/2013 includes the following categories of lands:

- all the lands about which there is no sufficient information (mostly private property lands whose owners are not registered with property titles requests), out of which the surface of the property titles issued by County Agency of Property Title Issuing, Iasi. They can also be found in the observation column of addendum 1;

- some roads are highlighted on the photogrammetric records, hence used, but not included in the public or private lands in the village. This solution has been chosen due to the characteristics of the area, where there are many access roads privately owned, due to servitude. In case some lands in the area are restituted, there will be made an analysis to see whether the inventory in the public domain should be changed in order to include those access roads.

5. Conclusions

The issue related to the property right which was most often met, right held according to the property titles, is that of the errors in editing. These errors appear either due to the lack of education of the people editing them or due to the lack of a well-structured data base on the buildings in the villages.

The second category of errors appears due to the lack of a well-structured data base and necessary information. Thus, the lack of cadastral plans, parcel plans, the lack of professionalism of the public servants specialised in cadastre working for the local counties, leads to some serious errors which make it very difficult to enforce the Law no 165/2013.

Considering all the facts mentioned above, we might conclude that this paper cannot be seen as a cadastre plan, as it has been defined by the norms and regulations in force, but rather as a data base and should it be properly used, it might be a valuable instrument for Holboca commune hall departments working in the field.

7. References

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