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AND THE MANAGEMENT OF COMMONS.
A FIELD-BASED ANALYSIS OF THE MONITORING,
CONTROLLING AND SANCTIONING INSTRUMENTS
IN THE COMMUNAL VILLAGES' OBȘTE**

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INSTITUTIONS, SANCTIONING PROCESSES AND THE MANAGEMENT OF COMMONS. A FIELD-BASED ANALYSIS OF THE MONITORING, CONTROLLING AND SANCTIONING INSTRUMENTS IN THE COMMUNAL VILLAGES' OBȘTE

David DIACONU*

Abstract

The aim of this paper is to present an Institutional overview of the monitoring and sanctioning instruments that existed in the Romanian communal villages. The Romanian communal villages are known as Obște. The *Obste* is the entity which manages the commons held by the villagers in a communal form of property. Usually, the commons managed by the *Obste* consist of forests, pastures and common infrastructure (markets, schools, ballrooms or even the public lighting system, in some cases). The type of commons over which the *Obste* has a major impact is the forest, because the incentives to exploit it in order to increase the total revenue are much more pressing. The analysis will be based on the *institutional analysis and development framework*. The analysis will be cross-temporal in the sense that all the communal villages will be analyzed over three time periods: *the old Obste* (the period until 1948) –, *the communist period (1948-1989*, when all the communal properties were transferred to state's property) and the *new Obste* (1990 – present; a significant moment in this third period was the enforcement of a new law in 2000, which opened the opportunity to re-establish the communal village's *Obste*). The focus of the paper will be on the effects of the monitoring and sanctioning instruments in the three periods mentioned above and on how their changes affected the Common Pool Resources institutions' robustness levels. Taking into account the State's imposition of stricter forest exploitation procedures – including Forest Ranges – the Common Pool Resources institutions are less robust in the nowadays periods comparing the the period of *the Old obște*.

Keywords: Self-government form of property; Obste; Communal village; institutional analysis and development; design principles; monitoring and sanctioning.

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Introduction

In this paper I employ the Institutional Analysis and Development Framework in order to offer an answer to the following research question: “do institutions matter in the management of commons?”. Starting from the Ostromian theoretical framework, every Common Pool Resource (CPR, hereafter), in order to avoid the tragedy of commons, has to be governed by eight design principles. From these eight design principles of the Institutional Analysis and Development Framework, I will analyze only the 4th and 5th: *monitoring* and *graduated sanctioning*. Although all the eight design principles are linked one to another and the framework works as a whole, for this analysis I start from the assumption that all the other principles (1-3 and 6-8) are satisfied. In my opinion, this may look like a *ceteris paribus* assumption, that should be made in order to test or analyze only two principles. In this manner, I will refer to all the forms that these two instruments took throughout the communal villages’ evolution process. In other words, the aim of this paper is to map the sanctioning instruments and their related features for the case of three types of Romanian communal villages.

This paper is structured in four sections. The first one refers to the institutions and the management of commons, presenting commons’ characteristics, the tragedy of the commons and the possible solutions to the tragedy. In addition, I present the characteristics of the *institutions* in North and Ostrom’s words. Moreover, in the second section I present the Romanian Communal Villages and their *Obște*. There I intend to offer the core characteristics that are needed for the paper’s economy. Furthermore, in the third section, I present the data collection methodology and procedure, while in the final section I present the results and the discussion.

Institutions and the management of Commons

The Commons and the tragedy

Ostrom et al. (1994, 6) distinguished between four classes of goods based on two characteristics: exclusion and subtractability. While the first one refers to the possibility of exclusion or limitation of potential users from consuming them once they are provided by nature or by other activities, the subtractability aspect refers to the quality or quantity of the goods that remains available for other users (Ostrom et al., 1994, 6). The commons are the goods that are characterized by high subtractability and difficult exclusion (Ostrom et al., 1994, 7). In other words, the commons are that kinds of goods that may be used by any person, but after his/her consumption, the quality or quantity won’t remain the same for all the further users.

The tragedy of the commons was proposed by Garret Hardin (1968). He proposed the metaphor regarding a *pasture* that had a certain surface. On that pasture, there were two herders who were bringing their cattle on. Assuming that

each herder has a personal interest in getting more profit (in other words, assuming that herder is a rational actor), each of them will be interested in bringing more and more animals on the limited pasture. This action will increase the personal profit for each additional cattle brought on the pasture, while the costs will be split. Moreover, assuming that both the herders are rational and both of them know that they are rational actors, they will act accordingly: will bring every time they can more and more cattle. But, the end of their behavior is that the pastures are destroyed, because they bring more cattle than the pasture can accommodate (in order to regenerate). Thus, *the tragedy of the commons* appears (Hardin, 1968, 1245-1247). Elinor Ostrom also considers that the model of the tragedy of the commons may lead to the following prediction: “when individuals who have high discount rates and little mutual trust act independently, without the capacity to communicate, to enter into binding agreements, and to arrange for monitoring and enforcing mechanisms, they are not likely to choose jointly beneficial strategies” (Ostrom, 1990, 183). The tragedy of the commons does not occur only in the case of pasture, but in all the cases in which we have shared goods. For example, as Ostrom et al. (1994) presented, another tragedy of the commons’ situation is in the case of the fish in the international seas. Hence, “the incentives toward excessive resource exploitation, illustrated by Brixham Harbor and The Geysers, are not isolated or unique events. The temptation to overextract fish, steam or other resource units form a resource system shared with others occurs in many guises in diverse resource systems throughout time and space” (Ostrom et al., 1994, 4).

The tragedy of the commons was one of the most important social dilemmas over the decades, because there had not been proposed a solution without problems. When discussing about which solution is the best, we shall refer to the solution with the highest probability of avoiding the tragedy of the commons. Maybe the solving solution that easily comes into mind refers to exclusion or limitation assured by physical boundaries. For example, a solution may be a fence built on the pasture in order to stop the cattle access inside. Although in this case the costs may not be so high, referring to an example proposed by Ostrom et al. (1994, 7-8), let’s imagine an inshore fishery let alone an entire ocean. The costs of a fence that limits the fishermen to overextract the fish or a fence that limits the fish’ banks movement are prohibitive. Hereby, there must be formulated other solutions that may be more cost-efficient and more realist.

One of these attempts was proposed by Elinor Ostrom in *Governing the Commons* (1990). She discussed and criticized the *Hobbesian solution* and the *Privatization solution*. The first one refers to the imposition of rules by a Leviathan (i.e. by the state). Although it seems a possible viable solution, it has some problems. One of them resides in the fact that it is impossible for the State to know exactly all the details that happen in all the lands, all the time (Ostrom, 1990, 10-11). In other words, we cannot assume that the state knows for sure all the characteristics (such as dimension, their capacity, their regeneration time, etc.) of all the pasture throughout the entire country. Because of these limitations,

the Hobbesian solution may not be the best, because it has a low probability of avoiding the tragedy of the commons.

Another solution is that known as *the liberal* solution. This proposes the privatization of the common, in order to solve the tragedy. But this solution proposes the transformation of the good's characteristics from non-excludability to excludability. Thus, it will become a private good. Although this may seem to be a better solution than the Hobbesian, it also may arise some problems, such as the long term of imposing the new institutions and rules (Ostrom, 1990, 11-12). In other words, the herders' behavior may not change as fast as the privatization, in the sense that the owners of the pasture must control and sanction all the herders that continue to bring their cattle on.

Finally, Elinor Ostrom proposed a third solution: *local-based institution of governing the commons* (Ostrom, 1990, 13-16). Hence, the community proposes and adopts itself any norms of government for the commons they own or manage. These institutions are accepted by all the members and are applicable to that given situation: the local community knows better than any other external entity which is the exploitation limit, and they may propose monitoring and sanctioning measures for the over exploiters. Thus, Ostrom advocates for local communities to adopt itself the norms of governing, in order to avoid the tragedy (Ostrom, 1990, 15-16). Briefly describing, *the local-based institutions* solution is represented by some *rules-in-use* devised by the community, which stand for overcoming the tragedy of the commons. This third solution is the one which I characterize and present throughout the paper.

Institutions and the IAD Framework

Starting from the definition regarding the institutions proposed by Douglass North, "institutions are the rules of the game in a society, or more formally, are the humanly devised constraints that shape human interaction. In consequence, they structure incentives in human exchange, whether political, social or economic" (North, 1990, 3), Ostrom proposed a new one adapted to the context of CPRs analysis. Thus, for her, institutions are working rules used to determine the eligibility of decision-making positions. Moreover, through *institutions*, Ostrom refers also to the aggregation rules, the allowance or constrain of some actions in different arenas (Ostrom, 1990, 51). These two definitions, although they are not so similar, they present the same core understanding of the *institution*. Hereby, I consider that Ostrom continued the new-institutional tradition established by North.

As previously presented, the CPR stands for *common pool resources*. When talking about the tragedy of the commons and CPR institutions, I consider that the capacity of avoiding the tragedy of the commons represents the *robustness* level of the CPRs institutions. This may be one perspective. On the other side, as Shepsle proposed the terms of *robust* or *institutional equilibrium*, there might

be another reference to the robustness. For him, “an institution is essentially in equilibrium if changes transpired according to an *ex ante* plan (and hence part of the original institution) for institutional change” (Shepsle, 1989, 143). In other words, as Ostrom and McGinnis presented, the rules used in a CPR context may be modified and updated over time (McGinnis and Ostrom, 1992, 7).

Elinor Ostrom was interested in situations where the individuals take repeated decisions, rather than single, isolated ones. Ostrom theorized that specific problems may arise when a group of individuals are using the same resources over and over again (Ostrom et al., 1994, 7). Thus, she proposed the *Institutional Analysis and Development* Framework. The IAD Framework was proposed to “dig deeper than hierarchies and markets” (Ostrom, 2005b, 821-822).

The Institutional Analysis and Development Framework was proposed in order to identify the major types of structural variables that are present in all institutional arrangements. The values taken by these variables differ from one type of institutional arrangement to another, but they can be studied using the same approach (Ostrom, 2011, 9). In her 2011 paper, Ostrom simplified the IAD framework’s scheme because of the misunderstandings over the *action arena* and *action situation* terms. Initially, the IAD framework assumed that *the actor* is separated from *the situation*,² in order to make much more theories compatible with the framework. But, as she mentioned, after the integration of the IAD into the socio-ecological systems, it was not possible to keep the actors so differentiated from the situation (Ostrom, 2011, 9-10).

After the usage of the IAD framework in fieldwork research activities, Ostrom and her colleagues concluded that there is a set of principles that should be used in identifying successful CPR institutions (Ostrom, 2005, 256-261). There is not any minimum required number of the respected principles in order to conclude if a CPR institution is robust or not, but, as the empirical results showed, there is a correlation between the number of these and the CPR’s robustness level. Also, Ostrom shown that all the forms of organization that do not share the design principles tend to be fragile and dysfunctional (Ostrom, 1990, 177-178). A *design principle* should be understood as “an essential element or condition that helps to account for the success of institutions in sustaining the CPRs and gaining the compliance of generation of participants to the rules-in-use (McGinnis and Ostrom, 1992, 8).

The design principles that were derived from studies of long-enduring institutions for governing the commons (Ostrom, 2005, 259):

1. *Clearly defined boundaries*, which means that both the boundaries of the CPR and the individuals with right to exploit in that CPR are clearly defined.
2. *Proportional equivalence between benefits and costs*. Referring to this design principle, Ostrom considers that there must be a rule that specifies the amount of a resource that an individual is allowed to consume. This consumption level must be related to all the local conditions and to other rules that specify the labor level or money inputs.

3. *Collective-choice arrangements*. It is an important characteristic that a CPR institution permits to the affected individuals to modify the rules. In other words, all the members of a community must have the possibility to change the unwanted rule.
4. *Monitoring*. The institution should permit and propose monitors, who audit the physical conditions and individuals' behavior.
5. *Graduated sanctions*. All the users that do not respect the rules-in-use should receive graduated sanctions, depending on the effects.
6. *Conflict-resolution mechanisms*. All the conflict arose within the community should be rapidly and efficiently solved.
7. *Minimal recognition of rights to organize*. There should not be any external impositions into the communities' rules. The community should be free in promoting its own institutions.
8. *Nested enterprises*. "appropriation, provision, monitoring, enforcement, conflict resolution, and governance activities are organized in multiple layers of nested enterprises" (Ostrom, 2005, 259).

The entire Framework works as a whole, when discussing the avoidance of the tragedy of the commons. Otherwise, the design principles may be taken separately to be discussed, but their effect will be reliable only in the framework. Although this limitation, in the present paper I am analyzing the monitoring and sanctioning processes (the 4th and 5th design principles). In order to set apart this limitation, an assumption is needed: all the other design principles remain unchanged. In other words, the paper aims to map the forms taken by the 4th and 5th design principles in the case of Romanian communal villages. The choice of these two DPs is not random, those two being one of the most intuitive management measures. Despite the ownership characteristics, any person is interested about what happens when someone does not respect the rules and how he/she is caught not respecting them. Firstly, the *monitoring* design principle refers to the existence of any monitors, who audit CPR conditions and participants' behavior. They are accountable to the participants or even the participants may be monitors (McGinnis and Ostrom, 1992, 9). On the other side, *graduated sanctions* represent the way participants are to be punished for violating operational rules. The sanctions are *graduated* in the sense that they depend on the context and on the effects that the participant's violation has had on the commons' quality or quantity (McGinnis and Ostrom, 1992, 9). These sanctions may be assessed by other participants or by external representatives that have received a delegation in this manner from the participants.

Although I employ an Ostromian perspective, there are some authors that are analyzing the commons from other perspectives. For example, Cox et al. (2010) tested the design principles proposed by Ostrom through a meta-analysis. They discovered that although the principles are empirically supported, there may be needed some further developments, and proposed three critiques. One criticism refers to the IAD framework and design principles applicability to other cases that those Ostrom intended. Another criticism resides in the incompleteness of the

design principles. The authors consider that there exist some other features that may affect the outcomes of a local-managed common. Lastly, the third critique has effects on the entire approach. The authors considered that the design principle approach may be the wrong way of commons analysis. They presented both theirs and other authors perspective on the necessity of a more socially, environmentally and historically perspective on these cases, not only an economic one (Cox et al., 2010, 13).

Although I consider the criticisms well developed and presented, referring at least to the sanctioning design principle and any linked features, I consider the institutional economic perspective reliable and applicable to the case studies presented here. In other words, although there are some criticisms, the institutional analysis applied on villages may propose some new insights, compared to other perspectives. The paper aims for mapping the sanctioning instruments and their linked feature, taking into account mainly the economic factor, but no considering that the other are wrong or not useful.

The Romanian Communal Villages and Obște

The Obște is an archaic form of property, not only in the Romanian area. Similar forms of organizations may be found also in the Russian region, Southern and Southeastern Asia or in Former Austrian Empire³. It is important to emphasize that in Romania, the *obște* is not the only associative form of property that manages commons. As previously mentioned, the former Austrian Empire included some similar forms, known as *composesorate* (these may be found in the nowadays Transilvania).

In Romania, these associative forms of property were mainly studied by the research teams led by Dimitrie Gusti, but not limited to. For the newer period, there are many authors, from distinct fields (such as Anthropology and environmental history) (Vasile, 2006, 2008, 2009; Măntescu, 2009; Dorondel, 2009, 2016) or Political Science (Miroiu, 2015, 2016; Terpe, 2015; Cerkez, 2015; Cerkez, 2015). Recalling the discussion presented at the end of the previous section, some of the above mentioned researchers are not employing an Ostromian perspective, but a more socially and non-economic oriented perspective. For example, Monica Vasile analyzes several obști from the Southern Romanian part, in the Gorj, Vâlcea and Argeș Counties from an *emotional* and *relational* perspective (Vasile, 2019, 4). Thus, she offers an overview of the *enlivenment of institutions*, taking into consideration the individuals human satisfactions and aspirations (Vasile, 2019, 3-4).

The *obște* is an undivided group ownership association within which owners could not physically locate their individual lands (usually forests or pastures⁴), however they can demonstrate with documents that they own the forest in common (Nichiforel et al., 2015, 477). Another definition of the Communal Village was

proposed by Henri H. Stahl as: “neither a unique household nor a simple spatial coexistence of autonomous households. The communal village is an association of family households on a common owned territory, in which the collectivity has anterior and superior rights, exercised by a leading organization named *Obște*” (Stahl, 1958b, 45).

At this time, I consider important to differentiate between *Obști*⁵: throughout the entire paper I will use different terms for describing different developing periods of the *Obște*. Thus, I will refer to the old *Obște* for describing the entire period until 1948 (the starting point of the procedure of transferring the communal properties to state’s property (nationalization) or to locally agricultural cooperatives known as C.A.P.s). I shall refer to the new *Obște*, in order to describe the period since 1990 until present (in this timeframe, a significant moment was the enforcement of a new law in 2000, which opened the opportunity to re-establish the communal village’s *Obște*). The uncovered period (1948-1990) will be described as the communist period. In this time, there was not any formal existence of the associative forms of property known as *Obște*. These associative forms of property are owning commons that have the form of forests and pastures. The forested areas represent the important part of the common surfaces. From the total or Romanian forested areas, the private property of communes – indivisible (as they appear in the National data set), for 2012, equals to 172,000 hectares, that represent 11% of the total forested area (Nichiforel et al., 2012, 477).

The main characteristic of the *Obște* is its indivisible type of property which means that the property cannot be divided in pieces and sold. Moreover, the property is communal, in the sense that all the members of the *Obște* are owners, but the property is not theirs in the common sense of private property: they have the legal right of property over a part of a communal property, but that property is shared with other owners. In that sense, the villages organized on this structure are named communal villages. In other words, the definition of the Communal Village proposed by Stahl is the following: “the communal village is neither a unique household nor a simple spatial coexistence of autonomous households. The communal village is an association of family households on a common owned territory, in which the collectivity has anterior and superior rights, exercised by a leading organization named *Obște*” (Stahl, 1958b, 45). Or, in other words, the *obște* represents an undivided group ownership association within which owners could not physically locate their individual forestlands, however they can demonstrate with documents that they own the forest in common (Nichiforel et al., 2012, 477).

There is not certainly known the number of both communal (free peasants’) villages and the number of the villages characterized by vassalage, but as Stahl stated, “there existed a high number” (Stahl, 1958a, 7). Because of their number and their consistence on a mass phenomenon which comprises all the villages across the southern and eastern region of nowadays Romania, their communal property may represent a real-life problem. Following Stahl (1958a, 15), the territorial organization of a communal village at their beginning had three main

contents: a) a group of households located in the village's center; b) an area of forest and grazing ground which were free to use for every villager (Stahl notes that these types of field are known as "*commonaux* in France, *common-fields* in England, *allmenden* in Deutschland and Swiss and as *udmark* in Denmark"⁶ (Stahl, 1958a, 15)). As Nichiforel et al. (2012) show in figure 1, in 1947, in Romania the communal property summed 27% of the entire forested surface. All the commons were managed by either *Obști* or *Composesorate*. The forest was not only a provider of firewood and wild animals, but it was an area which could be used as pasture after a clearance. In other words, if in the village existed any shepherd, for example, she was free to clear a forest-eye, in order to develop a new pasture for her, but in the same time for the whole village. Last but not least, c) the third part of the communal village organization were the adjacent places to the villagers' houses, a field which was only on the control of the owner (i.e. nowadays it may be recognized as private property). As Stahl described it, this third zone was the one in "which the appropriator could use production techniques which were not under the village's collective control" (Stahl 1958a, 15). Moreover, there are many hypotheses related to the *Obști* appearance. The most of them were offered by Henri Stahl, such as the *theory of the eponymous hero* (1958a, 54-55), or the hypothesis which states that there was an initial form of social organization which in time became divided and fragmented into *Obști*, and finally into individual households (1958a, 55). There may be also formulated some other hypothesis. Founded on institutional assumptions, there are some other hypothesis formulated. For example, as Diaconu (2017) presented, according to Petru Poni's map, "the free villages may be found in the mountain and the higher lands of the Carpathian depressions, while the villages characterized by vassalage may be found predominantly in the lower land depressions and in the plains" (Stahl, 1958a, 45). The higher altitude areas choice was not random, it may be the result of an institutional arrangement based on the incentives that the villagers had. They could not be monitored by any landlord (or similar entity), because they could easily run and hide in the forests or caves (Diaconu, 2017, 75). Taking into account a cost-efficiency perspective and the attached risks, there was no any incentive for landlords, boyars or monasteries to own forested areas (Diaconu, 2017, 75-76).

Depending on the communality characteristics, the associative forms of property from Romania may be distinguished in two major types: *egalitarian* or *non-egalitarian*. Henri Stahl described three different kinds of *Obște*, based on their communality⁷ characteristics. Thus, Stahl (1946) differentiates among *absolute communality*, *egalitarian communality* and *inegalitarian communality*, in the case of Romanian *Obști* (1946, 160-175). Although Stahl considered the *Obști* characterized by absolute communality cannot be adapted to both the economic and juridical characteristics of the 1940s, the case of Vrancea was organized like that. The absolute communality means that all the villagers had the right of individually use the common, without any limit (Stahl, 1946, 160). Secondly, the communality characterized by egalitarianism, the *obște* imposes some exploitation

rules that may limit individual's behavior, in order to preserve the common. Last but not least, following Stahl, the inegalitarian communality arose from the egalitarian form, when some individuals wanted to exploit more than other. Those individuals were interested in somehow *privatize* the common, by transforming it into a shares-based system (Stahl, 1946, 173-175). In one of his newer books, Henri Stahl stated that the communality changed from absolute to egalitarian, and after that, to inegalitarian represents its self-destruction (Stahl, 1980, 116-117).

Due to the juridical developments (starting with the 1910 Forest Law, but not limited to) we cannot talk about any absolute communality, in the period of the *New obște*. Briefly, the core aspect of *obști* of Vrancea is the egalitarianism (Vasile, 2008; Măntescu and Vasile 2009; Diaconu, 2017). The main characteristic that differentiates between these two types of *Obște* is the number of *rights*⁸ that each member owns. Hereby, when talking about the inegalitarian ones, legally, each member has a number of shares in the *Obște*, similar to corporations. On the other hand, in the egalitarian *obște*, all the members are equal. One interesting remark in the case of these is that the *legality* is based on a local norm which was not previously formally stated in any statute or regulation. In Vrancea, for example, all the members are equal, and this characteristic resulted from their conception about a right. More exactly, in most interviews that I have taken in the Vrancea region, the interviewees told me that the *răzeș of Vrancea is born with its right and dies with the right* (of being a member of the *obște*).

For a more accurate description, I propose an example: let's assume a man and a woman, each of them being member of an *Obște*. In the inegalitarian *obște*, each of them has one right. If they decide to get married, the resulted family will own two rights in the *Obște*. Let's assume that this family will have five children. Being an inegalitarian *obște*, all the rights may be bought or sold or they may be transferred to the children after the parents' death. Thus, in the case of this family, after the parents' death, all the five children must split the rights that their parents owned. In this example, each child will have $5/2$ rights in the *Obște*. On the other side, transposing this family into an egalitarian *obște*, each member has *equal* right (which cannot be quantifiable; *equal* does not mean *1*). Hence, when children are under 18, the family has two persons with equal rights in the *obște*. But, in the case that all the children reach 18 years old, all of them implicitly become members in the *Obște*, receiving *equal* right. Moreover, if their parents die, the children will not inherit their parents' rights. This is the meaning of their internalized local norm (*the razeș of Vrancea is born with its right and dies with the right*).

In the following sub-sections, I will describe the main characteristics of each *Obște* in which I did fieldwork and which I analyze. Thus, referring to the inegalitarian type of *Obște*, I will discuss the *Dragoslavele Obște*, in the Argeș County. On the other hand, from the egalitarian *obște* family, I will discuss the following associative forms of property from Vrancea: *Obștea Năruja*, *Obștea Nistorești*, *Obștea Spinești*, *Obștea Nereju*, *Obștea Bîrsești*, *Obștea Herăstrău*, *Obștea Poduri*, *Obștea Poiana (Mușa, Vetrila and Hârboca)*, *Obștea Topești*,

Obștea Valea Sării, Obștea Colacu, Obștea Ruget, Obștea Mare Vidra, Obștea Mică Vidra, Obștea Vișoara, Obștea Spulber, Obștea Muntele Frumoasele (Vrâncioaia), Obștea Păulești, Obștea Tulnici, Obștea Coza, Obștea Hăulișca, Obștea Negriștea, Obștea Vilcani, Obștea Prahuda, Obștea Condratu, Obștea Paltin.

In opposition with the *Obști* from Arges County, the *Obști* from Vrancea have some core characteristics that show a need of analyzing them in a different manner. Firstly, the *Obști* from Vrancea are situated in the area known as *Țara Vrancei (Vrancea's Country)*. The name of *Vrancea* was given in the 15th century. Considering that the entire zone is closed by mountains, the name of *Țara Vrancei* appeared⁹. This characteristic of being closed is important when discussing about the rules, the institutions and about the possibility of modifying the local-based norms.

On the other side, this paper presents some new cases and proposes a new element within the *types of obști*, the *hybrid obște*. This term appeared after organizing a fieldwork activity in the Dorna Valley. The *obști* of there are not purely egalitarian nor purely non-egalitarian, but a mixture of them. In the following table, the characteristics of each type will be presented. Finally, in addition to the *obști* presented above, the analysis presented in this paper will focus also the case of *Obști* of Dorna Valley: *Obștea Cozânești-Ortoaia, Obștea Gura Negrii, Obștea Oușorului* and *Obștea Negrișoara*.

Table 1: Distinctions between the three types of *Obști*

	Egalitarian obște (<i>Vrancea</i>)	Non-egalitarian obște (<i>Arges</i>)	Hybrid obște (<i>Dorna Valley</i>)
What % of common does each villager own?	Each member has one part – non determined surface, it is a <i>part</i> .	One or multiple of one. Usually the parts are measured in surfaces. For example, for the case of <i>Arges</i> , a part = 1 <i>dram</i> which equals 1 ha.	One or multiple of one. The measurement unit is the <i>ioch</i> or <i>jugar</i> which equals to 0.5755 ha
Dividends?	Invested into collective goods (community)	Invested into private goods (personal)	Invested into private goods (personal)
Voting rule?	Each member has only one vote	Each member has a number of votes equal with their parts in the <i>Obște</i> .	Each member has only one vote.
Can the parts of common be sold?	No.	Yes, firstly the parts are offered for the members, otherwise they could be sold to non- <i>obște</i> members.	Yes, but only to <i>Obște</i> members.

Methodology

From a methodological perspective, the data presented in this paper are resulted from a qualitative approach. The instruments within this approach that have been used are *the in-depth interview*, *the group-interview* and *the document analysis*.

The in-depth interviews and group-interviews were organized in three historical sites of Romania, between 2016 and 2018. The three areas are Argeş County, Vrancea County and Suceava County. Taking into account three different regions of Romania, the paper aims to offer a comprehensive mapping of the three types of Obşte: *egalitarian*, *non-egalitarian* and *hybrid*.

In Argeş, a fieldtrip was organized in 2016 in Dragoslavele Communal Village. There were conducted 10 in-depth interviews and two group interviews with villagers, by me and Adelin Dumitru (Diaconu and Dumitru, 2017), city hall's employees or persons that are in charge with the management activity of the Dragoslavele Obşte (such as the President). Each interview had a duration between 40 and 130 minutes and followed a semi-structured interview grid. The same grid was also applied in the other two regions. Therefore, in Vrancea were organized two fieldwork activities, in 2016 and in 2018. Regarding the first one, being a collaborator of a larger project led by Monica Vasile¹⁰, there were interviews conducted (both semi-structured and unstructured) with Obşti Presidents and key persons interested in Obşte's activity, such as local teachers, local priests, lawyers, medical doctors, firefighters, rangers or even mayors. In addition, in 2018 another fieldtrip was organized and I conducted 10 in-depth interviews with the Chief of a private Forest Range and villagers. The idea of a second fieldwork activity came into my mind because I was interested in any updates regarding the rights, members' statuses, elections and other similar commons' management issues. Last but not least, in Suceava I organized a fieldwork trip, in 2018, in the region of Dorna Valley (known as the former Câmpulung region).

The region of Dorna is interesting from multiple points of view. Maybe the most important point is related to the two different political institutions that governed the region trough time: in 1775, the region was split between the Austrian-Hungarian Empire and the Kingdom of Moldova. I was interested in covering both areas, and as a result, I conducted interviews with the Presidents of the following Obşti: *Obştea Cozăneşti-Ortoaia*, *Obştea Gura Negrii*, *Obştea Ouşorului* and *Obştea Negrişoara*. Moreover, I had three group interviews at three of the City Halls from the area: Dorna Arini, Dorna Căndreni and Panaci. In addition to these, several interviews with forest rangers and villagers were also conducted. In total, in the Suceava region, were conducted 13 in-depth interviews.

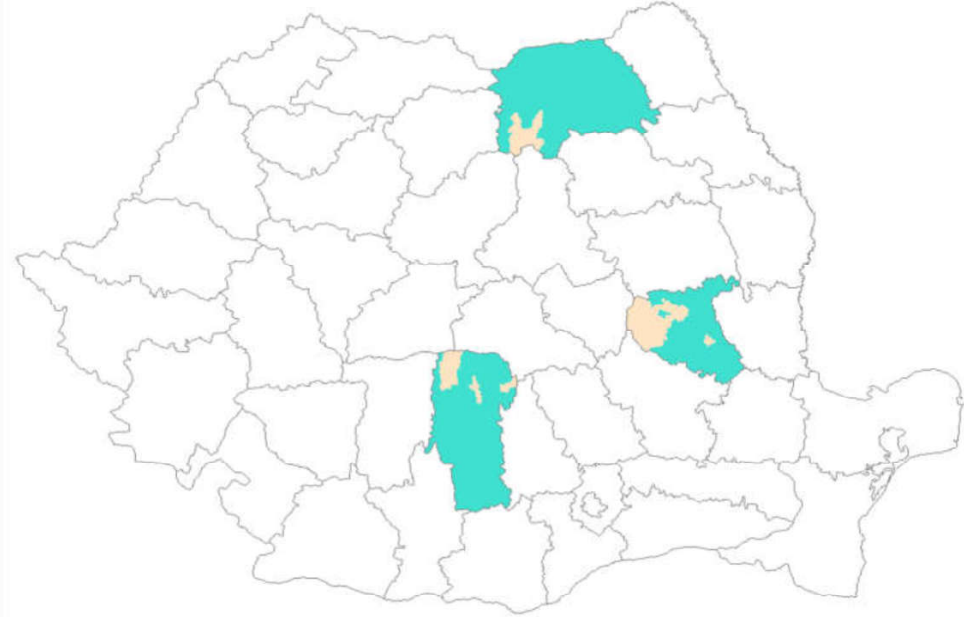


Figure 1: Map of the villages that are part of this research (colored in beige).

Source: Created by the author using Philcarto

From a procedural standpoint, the collection process of the involved data in this paper is represented by periods of time of field research activity. Before presenting each fieldwork activity, let me remember the distinction between three periods in the *Obște's* activity: *the old Obște* (the period until 1948), *the communist period* (1948-1989, when all the communal properties were transferred to state's property) and *the new Obște* (1990 – present; a significant moment in this third period was the enforcement of a new law in 2000, which opened the opportunity to re-establish the communal village's *Obște*). In this case, I tried to discover through interviews the details and characteristics of the second and third periods of time, from persons that lived in this period. Regarding the period of the *old Obște*, although in the interview grid there were questions referring to the period between the moment of the officially foundation of the *Obște* and 1948, those responses' validity is tested by matching the information resulted with all the existent information in the analyzed documents.

Finally, regarding the documents' analysis, the paper uses both social monographies of the villages, such as Dragoslavele (Răuțescu, 1937; Mogoș et al., 2010), Dorna Arini (Nafareanu et al., 2005), Dorna Candrenilor (Cernat, 2008), Țara Vrancei (Cherciu, 2012, 2013, 2015; Țibrea and Cherciu, 2012). In addition,

for some historical areas, there were documents that were analyzed, for example Teodor Bălan (1933, 1934, 1937, 1938, 1939, 1943).

Results and discussion

As mentioned, this paper aims to map the monitoring and sanctioning instruments that are part of the communal villages' institutional arrangements through time. There are at least three development periods of the Romanian villages *Obște*, determined by both historical regions and critical junctures. On the one side, the *Obști* of Vrancea and Argeș developed different local-based institutions under similar larger institutional framework: the one of a Kingdom, either Valachia or Moldova, under the suzerainty of the Ottoman Empire. Although the larger framework was not all the time the same, and the Ottoman suzerainty influenced the Kingdoms' framework in different grades, in different periods, mainly the arrangements were similar. On the other side, the case of Dorna Valley was different, because a prior political juncture. In 1775, the northwestern part of the Kingdom of Moldova was transferred to the Habsburg Monarchy. Thus, from 1775, different larger institutional arrangements were developing different context for all the villages, including the communal villages. All the institutional arrangements that were developed – usually incrementally – will be discussed in the following pages.

The major three periods of analysis are *the period of the Old Obște* (until 1948), *the period between 1948 and 1989* or (the communist period), and the period of the *New Obște* (1990/2000 to present). For the case of Dorna Valley, the *period of the Old Obște* will be split, taking into account the moment of 1775 and 1918. In 1918, the northwestern part (Bucovina¹¹) was transferred back under the larger institutional framework of Romania. We cannot talk about the management of the commons in the communist period (1945-1989). Taking into account that the *Obști* had been dismantled, the commons did not exist anymore, but the forest did. The forested surface were transferred to State's property, being administered by State owned forest ranges. The forestry management – referring only to the monitoring and sanctioning systems – were made by State entities. For all the cases, the forests were administrated by State-owned forest ranges, and the monitoring procedures were conducted by Rangers. The sanctions were imposed by judicial process and finalized by the State's Police. Thus, in this paper will be presented the differences between the monitoring and sanctioning instruments in the *old period* and the *new one*.

The name of these communal villages leading organization is not the only similar characteristics of them, but many other institutions and rules. When talking about *the obște*, at least for the three regions involved in this paper, the main characteristic is the one of communality and indivisibility. All the analyzed *Obști* own forested areas and pastures as commons. As a result, these properties may

become a part of a *tragedy of the commons* if they are not managed sustainably and with proper rules that permit the *tragedy* avoidance. Basically, the *Obști* are institutional arrangements that developed their own rules and statuses, in order to manage and preserve their lands. All these local-developed rules are working and developed under a larger institutional umbrella. Regarding the monitoring and sanctioning instruments, and also another *obște* characteristics, a juncture appears and described a new arrangement: The Forest Law of 1910. As Oana Mateescu argued, the year of 1910 represented “a crack into the history of the Romanian communal villages” (2013, 88). In other words, after 1910 there was not any continuity in the case of Romanian communal villages that was until that moment characterized as an immemorial and atemporal practice. Following her arguments, the 1910 was a moment when some elements (such as laws, communities, corporations or local habits) clashed, because of the 1910 Law imposition. This permitted some new property right and property succession elements to be infused into the community’s institutional arrangement. 1910 Forest Law was thus the time of the first modern law that treated and imposed new communal villages’ properties’ characteristics, along with the monitoring instruments.

The 1910 Forest Law was not the first Forestry law that offers a juridical perspective on the forest exploitation¹², but was the first time when the Romanian States intervenes directly in the functioning principles of such organizations (Mateescu 2013, 104). I consider that the Forest Code of 1910¹³ was one of the major instruments that the State used in order to clarify the property details and the exploitation procedures of the communal villages. As I.-A. Biriș stated in a foreword of the 1910 Forest Code that “more than 100 years ago, the politicians understood that they must unite in order to stop de forest exploitation and to advocate for the sustainable development of the timber exploitation by the approval of the Forest Code” (Biris, 2014, 1).

The results will be split into the two periods of the *Obște*: *the period of the Old Obște*, and *the New Obște*. In this section, I will be referring to the monitoring and sanctioning instruments in the analyzed communal villages’ *Obște*. Furthermore, in the last section of the paper, I will discuss the effects of each arrangement on the CPR institutions’ robustness.

Recalling the discussion regarding the monitoring and sanctioning instruments that existed in the analyzed *Obști*, in the following table I will briefly present some examples. After that, I will discuss their implications, and finally present a paper’s conclusion.

Table 2. Monitoring and sanctioning instruments in the case of Old Obște

	Inegalitarian Obște (Argeș County)	Egalitarian Obște (Vrancea County)	Hybrid Obște Habsburg Empire	Hybrid Obște Kingdom of Moldova
Monitoring instruments	Each member was in charge with the monitoring process. (The personal interest of the villagers that owned more shares was higher than the others')	Each member was in charge with the monitoring process.	The monitoring process was done by the Rangers in all the forested areas.	Each member was in charge with the monitoring process.
Sanctioning instruments	Light: admonition Medium: curses proposed by the priest Severe: ostracization from the village	Light: strong language Medium: curses and fights Severe: village ostracization	Light (from the villagers): strong language Medium (state's officers): 10-30 cane hits Severe: after judicial sentence	Light: admonition Medium: Curses and fights Severe: village ostracization
Other details	All the members were involved into the Obște's economic activity There is not any differentiation between the monitorization capacity or the sanctioning instruments depending on the number of shares detained.	All the villagers were involved into the Obște's economic activity.	No members were involved into the Obște's monitoring processes. Some of them were involved in the economic activity (as exploiters)	All the villagers were involved into the Obște's economic activity.

Technically, in the period of *the old obște* there were not major differences between the monitoring and sanctioning instruments, in the cases of the three (four) types of obște. As Table 1 presents, the analyzed Obști present both monitoring processes and graduated sanctions. Although the 4th and 5th design principles are respected, it is important the degree of DP respect.

Referring to the monitoring instruments the only example that stands out is the case of the Obști from the Austrian part. Starting with 1776, all the properties of the western part of Bucovina were measured. As a result, the agricultural land (including pastures), forestry, houses and courtyards were measured and registered (Nafareanu et al., 2005, 59). Moreover, the forestry rules were changed in the case of Bucovina. For example, in 1785 there was imposed a tax for wood usage, and

in 1788 the hunt was prohibited. In addition, the forest exploitation rules were changed (Cernat, 2008, 73). There were certain persons (similar to nowadays' rangers) that were in charge with the monitoring processes, being related to the State Authority. On the other side, the case of the eastern part of Bucovina that remained part of the Kingdom of Moldova, the case of Vrancea and the case of Argeş developed some local-based institutions. The monitoring was done by each member of the obşte. Here appears the first difference between the Inegalitarian, Hybrid and the case of Egalitarian obşte.

Firstly, in the case of inegalitarian obşti, not every villager is part of the commons' management organization. That means some individuals own more parts in the common than the other. Although this scenario, there was not found any link between the *dramuri* owned and the monitoring processes. In other words, there was not any case in which a member who owned a large part of the Dragoslavele Village was not monitored. The case of the eastern part of Dorna Valley was similar: not every villager was part of the Obşte, but only those that owned parts in the Obşte. While for the case of Dragoslavele, the shares were named *dramuri*, in the case of Dorna valley, they were named *iofuri*¹⁴, but they worked similar. Taking into account that the both cases are inegalitarian from an ownership perspective, the villagers are referring to their parts similar they are referring to a private good. Although the ownership had the form of a common, as resulted from the interviews, the member talked about *their parts* not about the *village's part*. Another important aspect was the villagers' involvement into the Obşte economic activity. All the members were involved in it, either by exploiting or selling the timber. The non-members were also implied in the activity, but as *employees*. Most of them were shippers. In an interview that was organized with a former Ranger (91 years old at the time of interview – 2018), in the case of Dorna Valley most of the non-members helped shipping the timber by floats or even paid exploiters.

In opposition, the case of Vrancea was characterized by a perfectly egalitarian communality, all the members were part in the obşte's economic activity, being their primary income source. This characteristic is important because all the benefits that the members had (or that the members have nowadays) must be equal between all the villagers. In other words, the personal interest that may arise in the case of an inegalitarian Obşte in buying more and more rights¹⁵ (such as Dragoslavele or obşti of Dorna Valley), does not exist in the egalitarian cases. Thus, the monitoring process was important for every member and was done by all.

Referring to the sanctioning instruments, there are many similarities. For all the cases the sanctions were graduated, so the 5th design principle was technically respected. In the case of the Austrian Bucovina, the sanctions were applied by State's authority and the most frequent was the physical punishment (between 10 and 30 cane-hits, depending on the situation) (Cernat 2008, 54-55). On the other side, in the other cases, all the Obşti had local-based institutions that imposed sanctioned for those who did not respect the rules. For example, in the case of

Dragoslavele a frequent sanction had the for of curses made by the village's Priest. On the other side, there were fights that appeared when someone overexploits.

Table 3. Monitoring and sanctioning instruments in the case of New Obște

	Inegalitarian Obște (Argeș County)	Egalitarian Obște (Vrancea County)	Hybrid Obște (Dorna Valley)
Monitoring instruments	Forestry District (private or public)		
Sanctioning instruments	Graduated Sanctions proposed and applied by Police or Judicial Court		
Other details	The villagers are not involved into the Obște's economic activity The state is the only entity that is allowed to sanction persons, even though they are part of a local-based institutional arrangement.		

The New Obști were established after the enforcement of the law 1/2000. They received all the forested surfaces that was previously owned and all the pastures and meadows. In the same time, all the Obști must respect the old *statute*. That means, the rules and norms – the institutions – of the Old Obște must have been preserved. With some amendments: the monitoring and sanctioning instruments. After the imposition of the communist regime, there were proposed Forest Ranges that had the role of monitoring the timber thefts from the forest. Similarly, after the 1989 Romanian Revolution, the Forest Laws were modified, in order to better fit the needs and the exploitation technology development. Thus, nowadays, every forest property, even private, owned by an Obște or owned by the State is monitored by a Forest Range. It is compulsory to have a monitoring contract with a Forest Range. On the other hand, the Law permits to all the owners that have more than a certain number of hectares to propose (and form) a Private Forest Range. This is the case of Dragoslavele (Argeș) and Obștea Tulnici (Vrancea). Other analyzed Obști either associated in order to form private forest ranges (for example, *Asociația Obștilor din Țara Vrancei*), or contracted the State Forest Range (some Obști of Vrancea and the Obști from Dorna). Even though the monitoring instruments remained at the Obște – but with limits and procedures set by the law – the sanctioning instruments are not in the administration of the Obște. For example, if the employees of the Forest Range find some stolen timber, they are obliged to contact the Police, in order to sanction the thieves.

This measure may be considered a part of a *leviathan solution* – the State is the only entity that manages the 4th and 5th design principle, even though they are part of a communal villages that was formed on local-based institutions.

Concluding the paper, the robustness level – understood as the capacity to avoid the tragedy of the commons, referring only to the two monitoring and sanctioning design principles – is decreasing with the degree of external interference. Moreover, although all types of Obște should have had a consistent capacity of avoiding the tragedy of the commons, because of the *communist period* (which may be understood as a *critical juncture* (Acemoglu, and Robinson 2012, 101) their robustness level decreased. The Obști institutions' robustness level decreased also because of the lack of the villagers' implication in the economic activity. After the imposition of the communist regime – and it remains similar nowadays – the villagers learned and developed new skills, many new jobs were developed, so the involvement into the Obște economic activity does not seem important anymore. Finally, the CPRs institutions robustness level decreased in the case of the New Obște, compared to the case of the Old one. Taking into account this argument, with the limitations of analyzing only two out of eight design principles, a tragedy of the commons cannot be fully avoided in a long term perspective.

Notes

¹ I would like to thank for all the discussions, criticisms and helpful objections related to this subject to Adrian Miroiu, Adelin Dumitru and to the audience of the 11-G panel of *Practicing the Commons – XVI Biennial IASC-Conference 2017*, where a previous version of this paper was presented. I am also deeply thankful to the two anonymous reviewers and to the Editor of the *Sociologie Românească* Journal. Due to the all above-mentioned feedback, this version of the paper is much improved.

² The initial scheme may be found in Ostrom et al. (1994, 37; fig. 2.2).

³ I would like to thank to the anonymous reviewer I of *Sociologie Românească* Journal for this point.

⁴ The obște may manage different types of goods, including ballrooms, exploitation companies, markets, sport arenas, etc. Referring to the lands, the *Obști* may own also the lands that exist in the village center (or even the lands under the villagers' houses).

⁵ *Obști* is the plural of *Obște*.

⁶ Taking into account the existence of these types of communal property in other countries than nowadays Romania (added to the Slavic region and to the Southeastern Asia, as I mentioned in the first section of this chapter), the communal property is not an exclusive characteristic of the Romanian archaic villages, as some scholars or even villagers are considering.

⁷ I propose this translation for the Romanian word *devălmășie*, because I consider that it best explains the property's characteristic of being owned by more persons, taking into account the indivisibility criteria. Also, this word may be found as *joint ownership* (for example, see Mateescu 2013, 106).

⁸ There may be different types of rights, such as *equal rights*, *dramuri*, *litre* and so on. All of them will be explained in the following paragraphs.

⁹ Dimitrie Cantemir described in *Descriptio Moldaviae* the Vrancea Country as “*Vrancea – unidiqueasperrinis circum-data montus*” – Vrancea which is circled by wild mountains (1716, apud Cherciu, 2015, 25).

¹⁰ I would like to thank Monica Vasile and George Iordăchescu and the whole research team involved in their project (Associative Environmentality – Romanian Forest Commons Project – supported by a grant of the Romanian National Authority for Scientific Research and Innovation, CNCS-UEFISCDI project number PN-II-RU-TE-2014-4-2865) regarding the study of the associative forms of property all over Romania. More details regarding this project may be found on the project’s Website: <http://romaniacommons.wixsite.com/project>.

¹¹ The area was named Bucovina after the moment of 1775.

¹² By this law, the Forest law of 1852, the communal forest law from 1897, the *composesorate* forest law from 1897 and the 1906 law were rescinded (Mateescu, 2013, 88).

³ The Code may be online accessed at the following link: <http://legislatie.just.ro/Public/detaliidocument/19328>.

¹⁴ As presented above, these were the surfaces measurement units and it was less costly for each villager to use an evidence-based unit to name the parts of the Obște. While the concept of *shares* is a non-tangible term, both *dram* and *ioch* (named by the interviewees as plural – *iofuri*) are operational forms.

¹⁵ More details referring to the Dragoslavele Obște may be found in Diaconu and Dumitru, 2017.

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