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(Re)establishing Institutions as Tradition. A Fieldwork-based Analysis of *Obște*'s Commons' Management Institutions

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ABSTRACT

The *Obște* is the entity which manages the commons held by the villagers or by lineage groups in a communal form of property in the historical regions known as Walachia and Moldavia. Usually, the commons managed by the *Obște* consist of forests, pastures, and common infrastructure. The aim of this paper is to present a New Institutional overview over the commons' management institutions of the *Obște*. The analysis will be cross-temporal in the sense that all the communal villages will be analyzed over three time periods: the old *Obște* (until 1948), the communist period (1948-1989, when all the communal properties were transferred to state ownership), and the new *Obște* (1990 – present; a significant moment in this third period was the enforcement of a new law in 2000, which provided the opportunity to re-establish the communal village *Obște*). The communal villages and their corresponding *Obști* that I will analyze in this paper are located in two Romanian historical regions, *Vrancea* and *Argeș*. The main difference is that while in the *Vrancea* region all the villagers have equal rights in the *Obște*, in the *Argeș* region the villagers do not have equal rights, with some individuals having more rights (called *dramuri*) in the *Obște* than others. Furthermore, there are differences in terms of the institutional arrangements that each type of *Obște* employs, with the villagers' behaviors varying accordingly. Finally, in keeping with the special issue's title, the paper also aims to investigate the evolution of *Obște* institutions over the time and their link to tradition.

KEYWORDS

Tradition; *Obște*; communal village; New Institutionalism; Commons management.



Introduction

Using the title of this *Martor Journal* special issue, “Back to the Future: Creative Traditions in the 21st Century” as a starting point, I will analyse the establishing and re-establishing processes that the associative forms of property known as *Obște* have undergone from a New Institutional perspective. Thus, I will refer to the *Obște* as a set of institutions – rules, norms, and regulations. From the beginning, a differentiation between those two processes must be understood. The history of the Romanian communal villages may be divided into at least three major periods. The period until 1948, which I will refer to as the period

of “the old *Obște*,” is by no means unitary and cannot be analysed as such. In fact, we can speak of several “old *Obște*” periods, according to the different laws and the local or state regulations that impacted and changed the life of the *Obște*, such as the 1786 *Orândueala de pădure pentru Bucovina* (Bukovina Forest Order), the 1881 *Forest Law*, and the 1910 *Forest Law*. In this paper I will refer to the old *Obște* as the one that has its last form (before dissolution); the communist period between 1948 – 1989, when all the communal properties were transferred to state ownership; and the period after the 1989 Romanian Revolution. This last period had a significant moment: the enforcement of a new law in 2000, which provided the opportunity to re-establish the communal village *Obște*. Furthermore, by the *establishing process* I am referring to

the emergence of old *Obște*, whereas by the *re-establishing process* I am referring to the emergence of the new *Obște*. In other words, this paper tries to provide possible answers to the following questions: first, *how did Obște institutions appear in the first place?* and second, *how can we account for the reappearance of the Obște?*

Before advancing into the next sections, it must be noted that the *Obște* is not a phenomenon unique to Romania. Similar forms of organizations may be found in South or Southeast Asia or even in Russia.¹ The *Obște* is the leading institution of the communal village. Its main characteristic is the fact that it is based on an indivisible type of property. Moreover, the property is communal in the sense that all the members of the *Obște* are owners, but no individual owner is allotted his own share of the property. Stahl called the villages organized on these core principles *communal villages*. He proposed the following definition for the communal village: “the communal village is neither a single household nor a simple spatial coexistence of autonomous households. The communal village is an association of family households on a jointly-owned territory, in which the collectivity has anterior and superior rights, exercised by a leading institution named *Obște*” (Stahl 1958, 2: 45).



Two Types of *Obște*

Given the nature of its core principles, i.e. those of *devălmășie*,² if one such principle changes, the resulting form of organization is a new one. Thus, changing the type of communality, can give rise to new types of *Obște*. In this paper, I will focus on the egalitarian and inegalitarian types of communality.³ As their label shows, these types of communality refer to the relationship between the villagers. This distinction does not apply to wealth or money. In other words, while in the village *Obște* based on egalitarian communality

all the villagers (members) are equal, in the *Obște* based on inegalitarian communality the members are differentiated by the number of rights (or shares) they have in the *Obște*. Hereby, in an *Obște* characterized by egalitarian communality, the existing institutions shape the individuals' behaviours so as to ensure preservation of the commons, be they a forest, a meadow, a pasture, or something else which is owned by the *Obște* (Stahl 1946: 168). These rules or institutions are the *Obște*'s way to ensure the continuity of its property for all the present of future members. Another key element of the egalitarian communality is represented by the equal rights and benefits for each member of the village *Obște*. On the other hand, according to Stahl, the inegalitarian communality itself started as an egalitarian form. For example, if in a village there are many individuals interested in increasing their private benefits derived from the commons, they will be also interested into transforming the *Obște* into an inegalitarian organization based on shares or on any substitutes for them (Stahl 1946: 173-175). Historically, these individuals were those who collected the local taxes, namely people used to handling money as opposed to the rest of the peasants who were used to exchanging their goods for other goods, not for money.

Furthermore, it is important to note that in Moldavia and Walachia there existed a high number of both free peasants' communal villages and communal villages characterized by vassalage (Stahl 1958, 1: 7). As a mass phenomenon which comprises villages across the southern and eastern regions of nowadays Romania, their form of communal property may represent a real-life problem. Firstly, the territorial organization of a communal village had three main components: a) a group of households located in the village center; b) an area of forest and grazing ground which was used for free by all villagers. (Stahl notes that these types of field are known as “*commonaux* in French, common-fields in

1. For more examples regarding the commons and *mir*, *zadruga* and *obschina*, see Vasile 2010.

2. I propose “communality” as a translation for this word as I consider that it best explains this characteristic of the property being owned by more persons according to indivisibility criteria, although others choose to translate it as *joint ownership* (for example, see Mateescu 2013: 106).

3. In Stahl's words, there may be another one, the most desirable, the absolute form of communality (Stahl 1946: 160).

English, *allmenden* in German and Swiss, and as *udmark* in Danish⁴ [Stahl 1958, 1: 15]). In this case, the forest was not only a source of firewood and food, but also an area which could be used as pasture after clearance.⁵ In many interviews conducted with villagers from Vrancea, they spoke about stories their grandparents had told them about the shepherds clearing forest glades in order to develop new pastures. These new pastures were used by the shepherds themselves, but at the same time were kept as commons for the use of the entire village. Lastly, c) there was a third part of the communal village organization, namely the plots adjacent to the villagers' houses, usually a field which was under the exclusive control of the owner (i.e., nowadays this may be recognized as private property). As an important detail, in this area, according to Stahl's description, "the appropriator could use production techniques which were not under the village's collective control" (Stahl 1958, 1: 15).

How Did Obște Institutions Appear in the First Place?

First of all, from now on I will refer to *Obște* as both the assembly of commoners and the set of rules in use. Because of the lack of historical documents regarding the birth of the *Obște*, I will present in this section the hypotheses offered by Stahl and by other scholars. The first hypothesis is the *theory of the eponymous hero*. This theory appeared to be one of the easiest to understand by all the stakeholders, but it might actually have no basis in fact, despite the many social monographs or even diaries according to which this and that village was created by this and that ancestor. For Stahl (1958), the theory of the eponymous hero could hold true only for those villages which are nothing else than an extensive form of one family whose ancestors had once owned all the land, i.e. a lineage. Hence, in time, as the family grew, the descendants became

the owners in equal parts of the land. In other words, this family divided among its members the property their ancestors had owned before. Hereby, it is nothing more than private property that had been divided in equal (or unequal) parts between the descendants. The assumption of the *eponymous hero theory* is that the ancestor settled on the land and appropriated an area which was not owned⁶ by anybody. The problem, as Stahl presented it, is that such large areas not owned by anybody couldn't have existed (Stahl 1958, 1: 54-55).

Another hypothesis is that there was some initial form of social organization which in time became divided and fragmented into *Obști*,⁷ and finally into individual households. In other words, the second hypothesis, which was proposed by Stahl states that the "nowadays *Obște*" [for Stahl, the *Obște* before 1948, the time when he did his research on communal villages] is "a disintegrated form of an older social organization" (Stahl 1958, 1: 55). The problem with the hypothesis proposed by Stahl is that there are no historical records or facts that can corroborate it; there are only the results of social archaeology, reality from the field, and the local norms. In other words, I consider that Stahl's account of the emergence of communal villages can only be tested by referring to unofficial records, reports, journals or even perceptions. In order to test this hypothesis, nowadays we can only rely on the villagers' perception. The problem we encounter if we follow this path is that their perception is based on arguments and stories told by their neighbours, their parents, or grandparents. Thus, we would not rely on arguments or actual empirical behaviours or information, but only on perceptions.

Moreover, in addition to local norms, each village may have some local legends. In this case, Stahl argued that in his fieldwork research, all the villagers considered that their village was established by one or more ancestors. Thus, each village has its own genesis legend (Stahl 1958, 1: 55). Maybe

4. Taking into account the existence of these types of communal property in other countries than nowadays Romania (the Slavic-speaking region and Southeast 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 might believe.

5. By *clearance* I am referring to the process of deforesting an area in order to be used in the future as a pasture.

6. By "owned," I am not referring to the nowadays meaning of the term, but to the areas that were not appropriated by anyone.

7. *Obști* is the plural form of *Obște*.

the iconic example of this type of legend is the one of Tudora Vrâncioaia and Stephen III of Moldavia (or Stephen the Great). The legend speaks about how Vrâncioaia's sons helped the Moldavian ruler to win a battle and, for their bravery or, as Monica Vasile presented, "for their military merits" (Vasile 2006: 4), each of them received a mountain. The legend is still significant nowadays, given that some villages claim to have descended from Vrâncioaia's seven sons: *Spulber*, *Păulești*, *Nistorești*, *Negrilești*, *Bârsești*, *Spinești*, *Bodești*. During my fieldwork in Vrancea region, where these villages are located, all the respondents quoted the legend. In order to promote the legend, for its touristic appeal, a small house was recently built on a hilltop in the heart of Vrancea region, which they called *Vrâncioaia's House*.⁸ It is a powerful

8. I would like to thank to George Iordăchescu for all the photographs presented in this paper.

example, according to Aurel Sava (1929), Păulești village was attested in 1507, Valea Sării in 1523, Bârsești and Topești in 1585, Tulnici in 1648, Ruget in 1661, Naruja in 1688, Poiana in 1694, Negrilești in 1709, Spinești in 1723, Bodești in 1750, and Nistorești in 1792 (Sava 1929: XXV).

There are also other possible hypotheses or explanations proposed by researchers outside sociology or anthropology. For example, Mancur Olson put forward the metaphor of the bandits and the ascent of democracy (Olson 1993: 567). In short, his argument is that there exist two types of bandits, one type that may be described as roving bandits, and another one as stationary bandits. While the roving bandit comes into a community and destroys "all the incentives to invest and produce, leaving little for either the population or the bandit, the stationary bandit "monopolizes and rationalizes theft in the form of taxes," an action which leads to a better situation for both the bandit and the community (Olson 1993: 567-570). Similarly, Stahl argued that a group of nomads (groups that were present throughout Walachia and Moldavia) might have exploited agricultural sedentary communities. Hereby, one possible course of action for these nomad groups is to come and exploit the agricultural village in order to get all of their produce, while another one may be to come and pillage only part of the community's produce in order to allow them to live and make more produce (Miroiu 2016: 35-37). Hence, the scenario of the nomads who are exploiting only a part of the community's produce is a better one, because it allows for the development of a relationship based on trust between the two groups (Stahl 1972: 42-44). Thus, a long time before Olson's metaphor, Stahl took into consideration the metaphor proposed by Oppenheimer whose gist is the same – except that the roving bandit is a bear, while the stationary bandit is the beekeeper (Oppenheimer 1906, qtd. in Stahl 1972: 43). This metaphor came to be known as *the bear and the beekeeper metaphor*.



Vrâncioaia's House.
Photo credit: George Iordachescu.

local symbol that not only legitimates the existence of the communal villages, but it is also a part of the locals' identity.

According to both Stahl, in his monograph of Nerej village (Stahl 1939) or in his *Contributions* (Stahl 1958), and to Mocanca (n.d.: 109), the peasants from the Vrancea communal villages are very proud of this legend and they are telling it to every researcher that comes in their area. Recalling the argument of Stahl's hypothesis and of the eponymous hero theory, the issue is not the legend itself, but, in fact, the unknown source of the property. Another important detail is the time when the social organization was officially recognized. For

Local Institutional Arrangements

Depending on the types of goods that every organization manages, different mechanisms were put into place to keep the quantity and quality of that good at the highest possible level. There are two main characteristics of goods: rivalry and excludability. Rivalry refers to the way in which the good is consumed. A good is said to be rivalrous when consumption by one party prevents the other parties from enjoying the same quality of that same good (Miroiu 2016: 38). Excludability refers to the way that the consumers may or may not be prevented from consuming a good (Miroiu 2016: 36-37). We have learnt so far that the old *Obște* manages forests and meadows. At the same time, all the villagers have a right of use for firewood or to graze their cattle on the jointly-owned meadow. Thus, the good, be it a *forest* or a *meadow*, is non-excludable. On the other hand, if a person cuts down all the trees from the communal village's forest, the other villagers are prevented from using it anymore. Similarly, if a villager brings more cattle than the meadow permits in order not to become overgrazed, the meadow will be destroyed, the worst-case scenario for the entire village. Hereby, the good is said to be rivalrous. So, using the classification of goods put forward by Adrian Miroiu (2016: 39), the meadows and the forests owned by the *Obște* are *commons*. A discussion regarding rivalry must be made here. As Mirela Cerkez (2015: 93) argued, the perception of the villagers in the old *Obște* period was that there was much more forest than they could ever use. Thus, the good was perceived as being infinite. Another point of view is related to the technology that was used by the villagers. In other words, the poor and rudimentary technology that was used made it impossible to exploit a large quantity of timber. Thus, the good remained non-rivalrous. Referring only to the two main characteristics of goods, *non-excludability* and *rivalry*, I consider that the

opportunity to exploit did exist, although there were no effective means for doing it at that time. The lack of means does not imply that a good's core characteristics are changed.

Probably one of the first most influential research papers on the commons is the *Tragedy of the commons* written by Garret Hardin (1968). In this paper, Hardin proposes the *pasture metaphor*. The metaphor assumes that there exists a pasture with a given size. And then there are two herders whose cattle are grazing on it. Taking into account each herder's personal interest in getting more profit from this activity, each of them will be interested in bringing more animals on the pasture. Individually, this action will increase each herder's profit, because the revenues for each extra animal brought on the pasture will be exclusively his, while the costs will be divided to both users of the pasture. At the same time, the other herder has the same incentive. The outcome is that the pasture is destroyed, and both herders are in a worse situation than before. Thus, there appears *the tragedy of the commons* (Hardin 1968: 1245-1247).

Since Hardin's work, there have been many attempts to solve the puzzle of this *tragedy*. One of the most significant is the one proposed by Elinor Ostrom (1990). According to her, 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 solutions proposed by Ostrom in order to solve this problem are *the Hobbesian solution*, *the free-market solution*, and the solution based on *local governance* norms (Ostrom 1990: 8-16). The first one is referring to the external imposition of rules by a Leviathan-like state. Thus, in order to avoid Hardin's

tragedy, the State is the one to decide when a herder may or may not bring another cattle on the pasture. The problem with this solution resides in the State's impossibility to know exactly all the details throughout the entire land it administrates (Ostrom 1990: 10-11). In other words, the State cannot know for sure how many pastures with the same size there are, their capacity, or at least the number of cattle that each herder brings on it. Because of these limitations, the Hobbesian solution may not be the best as it does not help to avoid the tragedy of the commons. The *liberal* solution proposes the shift from *common* good to *private* good. Thus, as Adrian Miroiu argues, promoting a good as being non-excludable might solve the social dilemma, because this transformation "is an instrument which eliminates the free-riding incentives" (Miroiu 2016: 352, note 19). Although this may seem to be a better solution than the Hobbesian one, it has its own shortcomings, such as the long time that it takes to enforce new institutions and rules, or even the impossibility of dividing the pasture. Lastly, the solution proposed by Ostrom was that of a local-based institution that governs the commons. Hereby, the communities propose and adopt their own norms of governing in order to avoid the *tragedy*. For example, in the case of forests, the local communities may propose monitoring and sanctioning measures for the villagers that overexploit.

In the case of the *Obște*, the problems that may arise in relation to the commons are various. I mention here just two of the most important ones: the potential overexploitation of the forest and the overgrazing of the pastures. The existing rules (i.e. institutional framework) influenced the way these two problems were dealt with in the *Obște*. According to Adrian Miroiu, "there were two factors that were involved in the creation of new institutions and organizations: a) capitalist relationships which changed the agricultural institutional arrangements

(plantation, grazing or deforestation) and the b) centralized state which imposed a more powerful administration and the individual taxation system" (Miroiu 2016: 53). Thus, the villagers' behaviour had changed in accordance to the new incentives provided. For example, following the ascent of capitalist relationships, the forest was increasingly exploited for money. In the old *Obște* period, both the form of property and the procedures of timber exploitation were based on local mutually accepted norms,⁹ and not on any official rule. But, after the industrial revolution and the implementation of more effective technologies and methods of timber exploitation, the need for state regulations became imminent for all communal villages across the country. In the terms proposed by Oana Mateescu, the year 1910 represents a "crack in the history of the Romanian communal villages" (Mateescu 2013: 88). In other words, as Mateescu argued, after 1910 the continuity which had characterized the communal property as an immemorial and timeless practice is broken (Mateescu 2013: 88). Following Oana Mateescu's argument, 1910 marks the moment when some elements such as laws, communities, corporations and local habits clashed, because of the documents (and laws) that permit local characteristics to seep into the juridical notions of property right and property inheritance (Mateescu 2013: 88). 1910 was when the first modern law dealing with communal village property rights and regime was passed, namely the Forest Law of 1910.¹⁰ Recalling the argument proposed by Adrian Miroiu, the 1910 Forest Law may represent the highest level of state involvement in the governing of communal villages throughout the country. The Forest Law was used by the State in order to clarify the property details and the exploitation procedures. Moreover, the Forest Law imposed the tables of rights and the by-laws. These table of rights listed all the members of the *Obște* (*Moșneni* for Argeș and *Răzeși* for Vrancea), who were at least eighteen

9. These norms may be understood as *informal institutions*.

10. The Forest Law can be accessed online at: <http://legislatie.just.ro/Public/DetaliuDocument/19328>.

years old and had right(s) in the *Obște* (Cherciu 2015: 210).

How Did the New Obște Appear?

Throughout the paper, new *Obște* is to be understood as the institution that emerged after the Romanian Revolution of 1989. Romania thus became a democracy, and opportunities to reclaim property rights over any nationalized¹¹ or collectivized goods (i.e. property) appeared. Between 1990 and today, many laws have been passed concerning agricultural land (including forest) restitution. Hence, the period after 1990 is characterized by a procedure of restitution of formerly nationalized properties. In this connection, the first law of restitution of agricultural lands, Law no. 18/1991, proved to be flawed insofar as it set a 10 hectare limit for property restitution. Although this limit may appear as reasonable, to prevent people from reclaiming large surface areas with forged documents, the associative forms of property, either *Obști* or compossessorates, could not apply to have their lands returned to them. In 1997, a new law regarding property restitution appeared, but it had the same effect for the *Obști* –they could not regain ownership of their property. Finally, the only instrument that helped the associative forms of property, especially the communal villages was Law no. 1/2000. In that period, there were many debates regarding the re-establishment of the *Obști*, even in Parliament. For example, Șerban Mihăilescu (a Member of Parliament at that time) declared: “As crazy as this might seem, in 2000 A.D., Daco-Roman and Habsburg obsolete institutions such as the *Obști* and compossessorates are going to be re-established to reclaim their forests in the third millennium!” (Mateescu 2013: 94). After this new law came into force, as shown by Monica Vasile (2008), “approximately 24% of the forested areas were returned to communal villages *Obști*” (Vasile 2008: 56). Thus, the impact of this law was notable.

Finally, although technically this law permitted the communal villages to re-establish the *Obște* institution and to recover their confiscated properties, there appeared a problem regarding the effects that all these laws had over the *Obște*. As I previously mentioned, the old *Obște* was a collection of many more characteristics than its wealth or properties. Originally, *Obște* was founded on a communal basis made of norms, rules, social capital, or even common economic activity. After re-establishment, the social capital as it existed in the earlier period disappeared due to the incentives and institutions deriving from *increasing state authority* and the economic limitations of *capitalist relationships*. Also, the norms and rules changed. Finally, regarding these two factors which changed the institutions, Adrian Miroiu proposes two more reasons that influenced the incapacity of the Romanian communal village to deal with exogenous factors: “the rudimentary characteristic of the communal village institutions and that institutions were proposed in a context characterized by sufficiency and they worked only when the goods were abundant” (Miroiu 2016: 54). Thus, the argument is that the institutional change is the result of the *Obște* institution's inability to adapt to the new challenges it faces.



Methodology

From a methodological perspective, in this paper I employed qualitative research methods. In his *Guide*, Ian Dey (1993) put forward an hypothetical situation regarding Eskimos and their perception of the colour white. Thus, if we would ask several people: *What color is snow?*, Dey argued that “to most of us, the answer ‘white’ may seem satisfactory, but to an Eskimo it would seem a joke: Eskimos distinguish between a wide variety of ‘whites’ because they need to differentiate between different conditions of ice and snow. So it is with qualitative

11. According to Mateescu, quoting Bouriaud (2008), in 1947 the total surface area occupied by communal village forests was 1,330,000 hectares (i.e. 20% of the total forested area in Romania) (Mateescu 2013: 93).

12. The included maps of Dragoslavele and Vrancea region were produced using Philcarto for Windows (Waniez 2013).

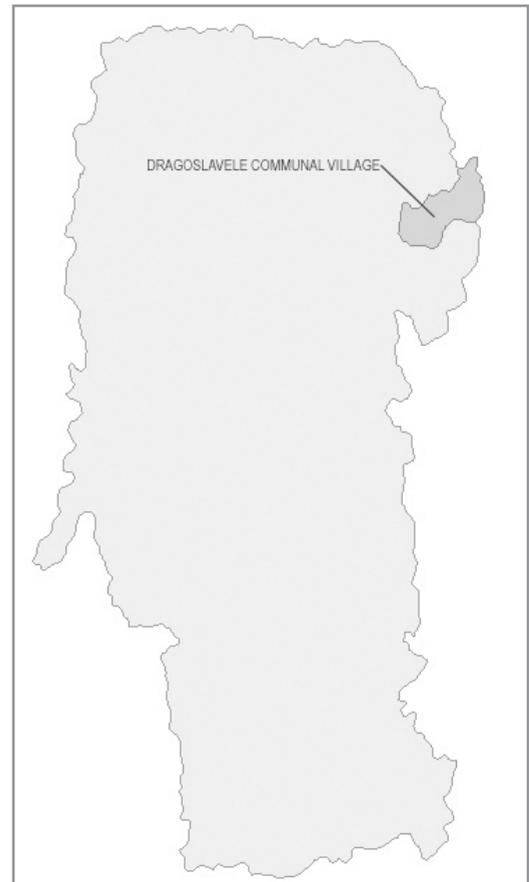
data analysis” (Dey 1993: 1). In other words, a qualitative approach allows me to differentiate between all the details coming out of the fieldwork activity. Hereby, I employed qualitative methods such as in-depth interviews and document analysis. Using the distinction proposed by Steinar Kvale between the *miner* and the *traveller* (Kvale 1996: 3-5), in this paper my approach was firstly that of a *traveller*, followed by the *miner’s*. First, I tried to obtain the general description of the *Obște*, and then I went more in-depth with the key interviewees. The choice of the methods was motivated by the advantages of the qualitative approach in this type of field study. Thus, one of the most significant advantages of in-depth interviews is revealed when participants cannot be observed directly and when they can provide historical information (Creswell 2003: 186). In other words, conducting in-depth interviews allows us to discover and understand peoples’ reactions and perceptions regarding the research subject. On the other hand, there is the limitation of the information being filtered by interviewees’ point of view (Creswell 2003: 186). To compensate for this limitation, I employed document analysis in order to retrieve details regarding the period of the old *Obște*. Furthermore, all the information resulted from the in-depth interviews may be checked against the information resulting from the document analysis, and vice versa. In terms of limitations, document analysis may be incomplete or the documents themselves may not be accurate or authentic (Creswell 2003: 187).

Procedure

Chronologically, the first fieldwork activity is represented by the ten in-depth interviews and the two group interviews conducted by myself and Adelin Dumitru in Dragoslavele communal village. The second fieldwork activity is represented by twenty-six in-depth interviews with heads of *Obște*, and an additional twenty interviews/

discussions about issues of concern for the interviewees, with *Obște* members in the historical region of Vrancea known as *Țara Vrancei* (Vrancea Country).

In Dragoslavele communal village,¹² the interviews were conducted in the first week



Dragoslavele Communal village and Forested area.

of February 2016 and all the interviewees were members of the Dragoslavele communal village organization. Each interview had a maximum duration of 130 minutes and a minimum of 40 minutes, because we only asked questions about things that they said they were familiar with. As we presented in the paper resulted from that fieldwork (Diaconu and Dumitru 2017), there were some respondents who did not know all the information related to the *Obște*, for example, the issue of the legal form of present-day *Obște*. Similar to the in-depth interviews, one group

interview was conducted with three elder members of the community, while the other one was conducted with employees of Dragoslavele municipality. We considered that those persons would know in-depth details regarding the connection and the collaboration between the *Obște* and the municipality (as the State's representative in the community). Recalling the February 2016 fieldwork activity in the Dragoslavele *Obște*, the selection of the interviewees was not programmed and it did not correspond to a specific statistical step. Thus, we interviewed all the persons who wanted to respond to our questions and issues, but we had a minimal requirement, namely for them to be members of the communal village. We tried to choose respondents from the village elders because, in this case, the probability of knowing all the details regarding the *Obște* and its past was higher. Moreover, we considered that the elders have more available time and are more interested into the *Obște* activities. Last but not least, as concerns the ethical aspects of the Dragoslavele fieldwork, the respondents answered our interview questions on a purely voluntary basis. In addition, we have only recorded the persons and interviews for which we received the permission to record them. Finally, all the discussions were held in Romanian because this was the native language of respondents.

The document analysis method in the case of Dragoslavele communal village consisted of analysing the two monographs on this subject. One of them was written in 1937 by Ioan Răuțescu – the local priest who was also involved in *Obște* activities. The other one was co-authored by the members of the new *Obște* Administration Council (Mogos *et al.* 2010). We also examined the maps and documents presented

on the communal village's website or in these monographs.

Regarding the second fieldwork activity, the one in Vrancea region, it was conducted in the first two weeks of August 2016 (1 August 2016 to 15 August 2016). Some of the interviews were conducted with heads of *Obște* – 26 in-depth interviews. I collaborated with the team led by Monica Vasile¹³ in their research conducted in Vrancea region. They used a comprehensive questionnaire about all the details regarding each *Obște*. More than that, we would interview each questionnaire respondent about additional details. After each respondent answered the questionnaire and additional questions, I filled in an interview grid, similar to the one used in Dragoslavele, with the answers provided. Similarly to the Dragoslavele communal village research, all the discussions were in Romanian, the native language of the respondents. The associative forms of property from Vrancea region analysed

13. I would like to thank Monica Vasile and George Iordăchescu and the whole research team involved in their project (Associative Environmentalty – 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>.

The analyzed villages of Vrancea and the forested areas.



in this paper are: *Obște* Năruja, *Obște* Nistorești, *Obște* Spinești, *Obște* Nereju, *Obște* Bîrsești, *Obște* Herăstrău, *Obște* Poduri, *Obște* Poiana (Mușa, Vetrila and Hârboca), *Obște* Topești, *Obște* Valea Sării, *Obște* Colacu, *Obște* Ruget, *Obște* Mare Vidra, *Obște* Mică Vidra, *Obște* Viișoara, *Obște* Spulber, *Obște* Muntele Frumoasele (Vrâncioaia), *Obște* Păulești, *Obște* Tulnici, *Obște* Coza, *Obște* Hăulișca, *Obște* Negrilești, *Obște* Vilcani, *Obște* Prahuda, *Obște* Condratu, *Obște* Paltin.

The other 23 interviews were conducted with key interviewees interested in *Obște* activities, such as local teachers, local priests, lawyers, medical doctors, fire-fighters, rangers, villagers, or even mayors. In my opinion, all of these interviews and discussions are relevant and helpful in the paper's economy because they provided more details about my research topic, the *Obște*, and an opportunity to engage in discussions with other persons who are either writing or working on the *Obște*. Thus, all the information which will be presented in the paper was verified from more sources than the interview with each head of *Obște*.

Moreover, I took daily notes about each interview and about all the connections between the observed phenomena and persons. Thus, all these details may be considered a short ethnography useful in providing details on the relationships between the members of the *Obște*.

Concerning the document analysis method, in the case of Vrancea region, I have analyzed all the published monographs about that region in the period of the new *Obște*: Cherciu (2012, 2013, 2015), Țibrea and Cherciu (2012); I have also analysed *Obște* by-laws and maps.

The main limitation of this paper resides in the number of analysed *Obști*. A comparison between the *inegalitarian* (only one analysed) and *egalitarian* (twenty-six analysed) *Obști* cannot be made. The first reason is the number of *Obști* analysed,

but there are also some other important characteristics such as their economic power, their wealth, their size, etc. Thus, both the results and the conclusions of this paper should be understood as the outcome of an exploratory research.



Discussion

In this section I will analyse from a New Institutional point of view the processes of establishment and re-establishment of the *Obște*. Although in the second section of the paper I have partly described the Institutional Studies theoretical framework, in the beginning of this section, I would like to broadly introduce the theoretical framework. First of all, Institutional Studies “focus on the rules, norms, procedures and formal organization and their effect on the social decision-making processes” (Miroiu 2017: 21). One of the most important researches for Institutional Studies is Douglass North's *Institutions and Institutional Change* by (1990). For him, “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). Thus, people's behaviours are shaped by the way institutions are built. Or, in other words, if you change the rules, you change the behaviour.

As for the *Obște*, this institution is faced with a possible tragedy of the commons. Therefore, throughout time, it underwent many changes in an attempt to reduce this risk. Thus, for example, in the Dragoslavele *Obște*, the monitoring process of the commons had two distinct components: the *Obște* was either the manager of its own resources or the *Obște* outsourced the right to appropriate some common-pool resources (CPRs) (Diaconu and Dumitru 2017: 21). Taking into account Adrian Miroiu's hypothesis regarding the simplicity of the

communal village institution (Miroiu 2016: 54), in this case, the monitoring process, for example, was realized by the villagers. If analyzed from this perspective, then, indeed, the institutions were rudimentary and very simple, but for the *Obște* members' needs, they were good enough. In other words, although the monitoring institution of the old *Obște* was costly, because all the villagers had to pay attention to the other villagers' behaviour, it was effective. The monitoring institution worked in one more way: because all the villagers were paying attention to the overexploitation of the forest, they implicitly knew that all the others were keeping an eye on them. Hence, the overexploitation did not appear in these cases. On the other hand, referring to the *Obști* from Vrancea, the hypothesis proposed by Miroiu seems to be valid. I say this because the institutional arrangements of the Vrancea *Obști* were not prepared for the selling of property rights procedure.

Therefore, many privately-owned companies "used the village or *Obște* leaders in order to get the permission to exploit the timber in that area" (Cherciu 2015: 169). Hence, the so-called *bald-headed Vrancea* phenomenon: a large part of Vrancea mountains were fully deforested by foreign companies. In this case, admittedly, the communal village *Obște* were not ready for this behaviour. Their institutions were not ready to resist to such an external actor.

But, let us recall the questions proposed in the Introduction and the purpose of this paper: *How did the Obște appear in the first place?*, regarding the old *Obște*, and regarding the new *Obște*: *Why did the Obște reappear?* And also: *Is the re-establishment of the Obște (the new Obște) the result of tradition?* In the following paragraphs I will propose some potential answers.

New Institutional Perspectives on the Old Obște

The first establishment of the *Obște*, as presented in the second section cannot be historically validated. There are many hypotheses about the building process of new villages in Romania, be they communal villages or villages under vassalage. Of course, a New Institutional hypothesis cannot be historically tested, at least for the early period of the *Obște*, but I will explain next why I take into consideration this possibility. First of all, 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" (qtd. in Stahl 1958, 1: 45). The choice of the higher altitude areas is not random, it is the result of an institutional arrangement. Being higher in the mountain region, the villagers could not be effectively monitored by the land-owning boyars: the villagers could easily run and hide in the forests or the caves. Thus, from a cost-efficiency perspective, there was no positive



The Old bell tower of *Obște* Spinești.
Photo credit: George Iordănescu.

incentive for the boyars to buy forested areas, because of the risk they might face. In addition, because of being able to escape monitoring or of the lack of rules or norms, the villagers had the incentive to run away from the hypothetical situation. In this case, the hypothesis regarding the communal villages' location seems valid. Of course, there is a limitation to this hypothesis characterized by a *post hoc ergo propter hoc* fallacy.

Taking into account the fact that there were villages organized in an *Obște*-like manner as early as the 1500s, I assume that the villagers have had some incentives for managing their property based on a type of communality. In the case of the *inegalitarian Obște* (such as Dragoslavele) there were local norms that contributed to the villagers' behaviour of developing an *inegalitarian Obște*. One norm is represented by their propensity towards selling the timber. Given the location of Dragoslavele on Dâmbovița River, the villagers there had the possibility to transport the timber through rafting. Thus, their interest in maximizing their profit was easily achievable. Moreover, in this region there was a rule that the rights, called *dramuri*, could be inherited. Therefore, if a family owns 1 *dram* (right) and it has two children, then, after the parents' death, each offspring will have 0.5 *dramuri*. But, if a family is childless, their right will disappear after their death. Hence, because the total number of *dramuri* is fixed (another local norm), they may donate or even sell their *dramuri* to other persons. Once this happens, a new market for *dramuri* is created. The buy and sell procedures and norms are locally set: for example, in the old *Obște* of Dragoslavele, the members of the *Obște* had pre-emption for buying *dramuri*. In other words, if a villager wanted to sell his rights, he had to sell them to another member of the *Obște* (on condition that the offer of the *Obște* member was not lower than any offer made by an outsider).

Whereas in the communal villages

of Vrancea, the local norm present in all the monographs about the Vrancea *Obști* states: "the member of any Vrancea *Obște* is born with his right to membership and the right dies with him." In other words, rights cannot be inherited. Coming back to the previous example, if there is a person who has a right in the *Obște* and two children, the latter won't become members of the *Obște* upon their parent's death, because their parent's rights *die* with the parent. Thus, the children would gain membership in the *Obște* implicitly, when they started working on the communal property. Taking into account these two different core assumptions, the resulting institutional arrangements are different and the villagers' behaviours are different. The institutional arrangement based on local norms thus led to two different forms of communal property: the *egalitarian* and the *inegalitarian Obște*. Furthermore, another difference deriving from this is in the level of investments in the community. In the case of Dragoslavele, the old *Obște* did not invest in the village assets, because these investments were deemed expenditure. The higher the expenditure, the smaller the profit for each *dram*. Thus, there was no incentive to invest into the community. On the other hand, in all of the Vrancea *Obști* where I did fieldwork, the *Obște* invested into the common assets used by all the villagers: the church, the school, or even bridges over the rivers.

In the adjacent picture is the bell tower from Spinești village, which was built by the old *Obște* of Spinești. There are many such examples throughout Vrancea region.

Last but not least, from a legal point of view, the associative form of property known as *Obște* (including the communal village) did not appear as a result of local norms prevailing, but as a result of the state's imposition. Hereby, whether we research the establishment of an *Obște* in Argeș, such as Dragoslavele *Obște*, or of an *Obște* in Vrancea, they were legally created following the enforcement of new laws.



The Dragoslavele communal village was formalized after the enforcement of the first forest regulations in Romania (1881). On the other hand, as mentioned in the previous section of this paper, in the case of the Vrancea *Obști*, they were formalized after the enforcement of the 1910 Forest Law. With the growing authority of the State, there appeared the “crack into the history of the Romanian communal villages” that Mateescu talked about (2013: 88). Finally, this archaic form of property only became officialised after the enforcement of the laws mentioned, because, in the case of the Vrancea *Obști*, they didn't need such formal arrangements before. Their existing institutional arrangements, consisting of local rules and norms, did not need to be ready for incorporating these laws. They were not firstly developed for that, and yes, they were too rudimentary and simple to solve simpler problems.

New Institutional Perspectives on the New Obște

Between 1948 and 1989, there were no associative forms of property because of the collectivization and nationalization processes started in 1948 by the Romanian government. Although the formal *Obște* had officially disappeared, the relationships between the former members remained essentially the same since they continued to be neighbours. Consequently, they kept their documents regarding the *Obște*, all the table of rights and by-laws. Moreover, the former *Moșneni* or *Răzeși* were transferred to work for the state-owned companies in their region or for the administrative apparatus. Thus, in the case of Dragoslavele, most of the *Moșneni* were employed at the Câmpulung-Muscel cement factory. On the other hand, in the case of the Vrancea *Obști*, the villagers were employed at IFET, which was the state-owned company that exploited the *State's* forests.

In 1990, Romania became a democracy, and as I previously stated, a key moment

was the enforcement of Law no.1/2000. The law granted people the right to re-establish their *Obști*, but on condition that they provided the tables of rights. Hereby, the re-establishment process was linked to the existence of the old documents such as by-laws and tables of rights. As a consequence, Dragoslavele village was one of the few such organizations that succeeded to re-establish their *Obște* in 2000. In the case of Vrancea, not all the communal villages were re-established in 2000. So how are the two cases different? Which were the incentives that contributed in the case of Dragoslavele to the more rapid re-establishment of the *Obște*? One possible answer is *the institutional arrangements*, the fact that norms were kept by the community and transmitted given the inheritable nature of the rights (*dramuri*) in the *Obște*. As an inegalitarian associative form of property, Dragoslavele *Obște* had a positive incentive to save all the documents in order to keep record of each person's wealth, because of the differences in the number of *dramuri* that each member owned. On the other hand, in the case of Vrancea, although the norms remained embedded in the community, the norms stated that the *rights of the Răzeș of Vrancea die with him*. Knowing that, the people alive at the time of the 1948 reforms did not have any incentives to preserve the documents. More than that, the local norms of this area were quite to the contrary: they hadn't adopted the provisions of the 1910 Forest Law, because they had no use for them. Therefore, they had no reason to consider the possibility of re-establishment after 1948 based on *documents they had no use for in the past*. The legal process of re-establishing the Vrancea *Obști* started from a Prefecture's employee who developed new sample by-laws based on the by-laws of the old *Obște* that he had found in the local archives. In time, all the re-established *Obști* accessed their old records kept in the State's Archives. Nowadays, fifteen years after the birth of the new *Obște*, some *Răzeși* of Vrancea consider that “this is not



our *Obște!* It is theirs!”¹⁴ – referring to the rangers, employees of the State, and to their links with the political power (Mateescu 2003: 121). In the interviews conducted in Vrancea region, there were persons who said the same. For example, the head of Condratu *Obște* said that “the *Obște* is not free, it is dependent on the State!”

To conclude, the re-establishment of the *Obște* after the enforcement of Law no.1/2000 permitted the preservation of the core principles of the old *Obște* institutional arrangements. For both types of *Obște*, the state intervened in their institutional arrangements imposing stricter laws and procedures. For example, now the monitoring and the sanctioning is done by a Forest Range, which employs rangers and which is paid by each *Obște*. Referring to the same laws, present-day *Răzeși* or *Moșneni* villagers are forbidden to use the resources of their forests, even for firewood. Therefore, although it preserves the core principles and rules of the old *Obște*, the new *Obște* is different. The differences arose from the changes made into the institutional arrangements. Those changes influenced the villagers’ behaviours, being a possible reason for their reticence regarding the future of the *Obște* institution.

Coming back to the title and topic of this *Martor* special issue, I deem it important to define “tradition.” A good starting point could be Hobsbawm’s statement in the “Introduction” to *The Invention of Traditions* (Hobsbawm and Ranger 1983) that “traditions” that appear or claim to be old are often quite recent in origin and sometimes invented (Hobsbawm and Ranger 1983: 1). Moreover, by “tradition”

Hobsbawm understands “a set of practices, normally governed by overtly or tacitly accepted rules and of a ritual or symbolic nature, which seek to inculcate certain values and norms of behaviour by repetition, which automatically implies continuity with the past” (Hobsbawm and Ranger 1983: 1). Hence, in Hobsbawm’s view, tradition is based on accepted rules or norms. With the creation of “the new *Obște*,” all the old norms and rules – *institutions* – were understood and observed by the members, because they not only accepted them, but agreed with them and their effects. They knew what the institutions were, how they worked, and how to refer to them. As I previously mentioned, many of the institutions of the old *Obște* were updated in the new version of the *Obște*, but their core stays the same.

To conclude, in the case of the analyzed *Obști* of Argeș and Vrancea, *institutions matter* in shaping the villagers’ behaviours. Institutions even matter in the relationship between the villagers and their local traditions.



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14. This is not the only point of view about this subject. For example, Monica Vasile considers that “the idea of community and ‘collective’ property is not important in the instrumental sense, as community returns, but in respect to common, shared identity and traditions” (2007: 127). Thus, there is also an attachment to the Oblite

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