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**Has Acquiring Property Rights over the Factors
of Production Become a Benefit Reserved for a Narrow
Number of “Privileged” Individuals and Enterprises?
A Study on the Current Situation in the Romanian Economy**

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Abstract

The present study starts from the premise that the economic policy of the Romanian state should be adapted in such a way as to favour a wider spread of property ownership over the factors of production among Romanian society in general, and Romanian entrepreneurs in particular. Simply protecting already acquired property rights, while necessary, cannot be considered sufficient for an efficient and ethical functioning of the institution of private property, as the concrete vocation of interested individuals to acquire tangible property rights is highly relevant. This statement will be detailed and properly justified in this study. By presenting statistical and factual data, as well as relevant indicators, it will be demonstrated that there are certain trends of concentration of capital ownership among a rather limited number of economic actors in Romania's current economy, which can produce unfavourable economic, social, and ethical consequences with lasting echoes. Moreover, the economic and legislative policy measures that encourage a wider access to new property rights, as well as the legal mechanisms that penalise capital accumulation not followed by efficient valorisation, will be identified and presented. Last but not least, this study aims to outline proposals for economic and legislative policy measures which could diminish and prevent the identified imbalances for the future.

Keywords: private property, distribution of property rights, concentration of property, capital accumulation, encouragement of property rights acquisition.

JEL Classification: A00-A14, D00-D23, K00-K11, P00-P26.

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1. Introduction: The Matter of the Distribution of Private Property Rights in Romania

The protection of private property is perceived by the Romanian state as a fundamental guarantee for the functioning of the market economy, as it results from the combination of three provisions of the Romanian Constitution (2003): on the one hand, Article 44 of the Constitution, whereby the Romanian state undertakes to guarantee and protect private property, regardless of its holder, and Article 136(5) of the Constitution, which establishes the inviolability of private property, and, on the other hand, Article 135 of the Constitution, which declares that the economy of Romania is a market economy, based on free initiative and competition. Although property, in the meaning of the legal right of property, both over personal use goods and equally over the factors of production, is protected in Romania at a constitutional level, the concrete acquisition of property, *i.e.*, the right to obtain property, is a concept whose practical realisation depends on numerous other factors, other than the constitutional framework in force at a given moment. Such factors are of an economic, social, political, and even historical nature, and they materialise and interact to a generous extent, varying according to the personal circumstances of each person who has the vocation to acquire property rights.

Out of the multitude of these factors, the economic policy of the state plays a special role, being very relevant to the extent to which it is oriented towards encouraging a dispersed character of ownership over the various factors of production or whether, on the contrary, it favours the concentration of ownership in the hands of a relatively small number of economic actors. In other words, the mere fact that a state's legislation allows, as a principle, the acquisition of property rights and that, after acquisition, institutionalised protection is provided for these rights, is not, in and of itself, a guarantee of the realisation of the broad access of interested agents to property over the factors of production. Normative provisions must be accompanied by elements from the spectrum of public policies to ensure the effective fulfilment of this purpose.

Under the conditions in which, after the turning point at the end of the year 1989, the understanding of private property, in the economic sense of the concept (that is ownership over the factors of production), had to adapt to the new capitalist economic order in our country, we consider that the extent to which decision-makers at the top of the state pursued (and, all the more so, the extent to which they succeeded in) a broad materialisation of the vocation for private property cannot be overlooked in any serious analysis of private property in contemporary Romania.

Therefore, starting from the previously stated premise (*i.e.*, that the economic policy of the Romanian state should be adapted in such a way as to favour a wider spread of property ownership over the factors of production among Romanian society in general, and Romanian entrepreneurs in particular), following a synthetic presentation of certain theoretical landmarks, this paper attempts to illustrate the general trends in the Romanian economy that can bring clarifications regarding this issue, emphasising its contemporary reality. Both the most important economic policy factors that have encouraged and continue to encourage the acquisition of

private property and those variables that have even involuntarily hindered the atomisation of this variation of property will be subject to a critical view. Finally, an attempt will be made to formulate recommendations that support the overcoming of the obstacles that arise between interested persons and the acquisition of private property rights.

The relevance of the theme stems from the reality that surrounds us, being obvious that the dynamics of private property rights remains one worthy of remark in Romania, considering the tendency of Romanians to overcome the limitation of their own wealth to goods for personal use or for passive hoarding, and also their significant interest for lucrative activities.

2. Problem Statement: Brief Presentation of Theoretical Benchmarks

The spread of property rights in a given society, as an expression of wealth distribution in society, was the particular concern of the distributist school of economic thought. This economic doctrine, developed in Western Europe at the end of the 19th century and the beginning of the 20th century, emerged from an ecclesiastical vision of Catholic origin on socio-economic phenomena and it considers the right to private property over the means of production a fundamental right which should enjoy widespread distribution among members of society. Thus, distributism differs both from the socialist thesis, which advocates state ownership over the means of production, and from capitalism, which rather promotes the acquisition of property rights by a relatively small number of entrepreneurs.

Among the main supporters of this line of thinking are / were authors such as Race Mathews, Thomas Storck, Gilbert Keith Chesterton, and Hilaire Belloc. The main favourable general arguments in respect of this doctrine are, from an economic point of view, that it would allow a large number of society members to earn a living without having to use someone else's private property, thus alleviating the problem of social inequality and of the large number of people who live in material precariousness, that associations oriented towards the capitalisation of means of production that overlap with the human communities that form the basis of social organisation (family, local community, etc.) could be created, and that distributism would prevent the monopolisation of economic power by a numerically small elite. Similarly, critics of distributism, such as Thomas E. Woods Jr. (2012), have sought to refute the doctrine with criticisms such as the loss of the possibility of immediate gain by those who, working for others, do not need to use their private property (e.g., an employee), the attenuation of the social division of labour, which would ultimately decrease production and cause a decline in the level of wealth (prosperity) in society, increased production costs, or the lack of natural appetite for acquiring factors of production (and, subsequently, for carrying out entrepreneurial activities) in a significant number of people. In addition to economic justifications, both defenders and opponents of the distributist thesis have formulated over the decades reasoning of a social, political, moral, or even religious nature.

Obviously, as with any economic theory and any model of organising human life and activity, the validity of the distributist thesis is relative, and the degree of

feasibility of its specific application varies depending on a multitude of variables characterising a particular society at a particular moment in its evolution. As a result, we do not aim, through this work, to theoretically validate or invalidate this thesis.

We consider a certain degree of atomisation of property rights to be, in principle, well encouraged, but the exact determination of this degree is an extremely complex problem for which we believe a universally valid solution cannot be found, i.e., one that is indifferent to the economic evolution of the analysed society. In fact, by presenting these theoretical frameworks, we have attempted to provide a formal starting point for the current paper, given the absence of Romanian or foreign literature that formally addresses the issue of real access to property rights in contemporary Romania. Therefore, the paper will be constructed based on these abstract general frameworks from the economic theory.

Last but not least, we consider it important to highlight the fact that this paper is, to our best knowledge, the first one to address this topic from the perspective of identifying specific solutions in a Romanian context.

3. Research Questions/Aims of the Research: A Synthetically General Overview of the Main Causes, Effects and Potential Remedies of the Current Situation of Access to Private Property Rights in Romania

This research will attempt to synthetically explain a general overview of the main causes that currently hinder the acquisition of property rights over factors of production in Romania, their specific manifestations and effects, as well as potential measures that could reduce the economic and social impact of these identified causes.

Given the exceptional complexity of the topic, the interdependence, and variety of the relevant data, as well as the space limitations of this work, we emphasise that a comprehensive (or even detailed) analysis would exceed the ambitions of the current research (but without excluding its future developments). Therefore, we will try to give the research a more qualitative rather than quantitative dimension.

4. Research Method: Observing the General Trends through the Interpretation of Studies and Statistical Data

The research method used to develop this paper consists of observing general trends in the studied topic by referring to various recent and relatively recent studies and statistical data. Thus, by interpreting and correlating the obtained data, a succinct and qualitative description of the relevant general trends will be attempted, with special attention given to identifying the main causes of the trends, as well as the main negative effects and their possible remedies.

We would like to clarify that, given the fact that the relevant variables of the analysed situation may not always be mathematically quantifiable, the conclusions of this study may not always take the form of precise formulas. Therefore, in our view, the methodological originality of this work lies in the combination of two

seemingly irreconcilable methods, namely the analysis of precise data and the empirical method.

5. Findings: A Current Complex Situation

5.1 A Specific Historical Background of the Dynamics of Private Property Rights

Referring to the specific situation of our country, it is worth noting that certain trends in line with the distributist theory have attempted to be implemented after the country's return to a free-market economy and to a democratic political organisation following the Romanian Revolution of 1989. It is important to point out that an open support for distributist doctrine has not been prominent in Romania, at least until very recently: even in this very recent period, it could be found with a certain timidity in a rather marginal area of public discourse and it does not occupy a central place even in academic debates.

However, an obvious intention to give private property to Romanians in the last decade of the previous millennium cannot be denied, although it is difficult to argue that this intention was successful. Regarding the privatisations of the 1990s, statistical data was synthesised by two authors in a specialised article (Hăinaru, Ghețiu, 2007), and it is worth noting from the presented data that in 1992, approximately 15 and a half million Romanian citizens received tradable property certificates in former state-owned enterprises that were later transformed into commercial companies after the Revolution. These certificates could be traded without restrictions or exchanged for shares (even in the absence of an organised market, as the authors – Hăinaru, Ghețiu, 2007 – note). Furthermore, the same authors (Hăinaru, Ghețiu, 2007) note that starting in 1994, around 1,500 such companies were sold to employees and management staff, either in exchange for property certificates or even for cash. They also note that in 1995, a substantial privatisation process was initiated that resulted in the issuance of new property certificates, this time nominative and non-tradable, which formally benefited approximately 17 million citizens. At the end of the subscription period in March 1996, 95 % of the certificate holders had used their certificates, resulting in nearly 17 million Romanian shareholders (who certainly represented the vast majority of the country's population at the time). Unfortunately, despite the optimistic appearance of these data, as noted in the same article, the vast majority of the nearly 17 million shareholders were characterised by apathy and lack of financial power, while the operation of the resulting commercial companies was deficient, with significant difficulties in organising and moderating the general meetings of the shareholders. These shareholders, in turn, largely faced conceptual difficulties in understanding the economic and legal significance of shares and of the stock market.

The fact that the privatisation and the ownership plan previously summarised was not a real success was also noted by another author (Copilaș, 2017), who highlighted the cynical reality that many Romanians who were thus given property did not know the rights conferred to them, so they did not understand the usefulness of a property

certificate or of a share. This author categorically expresses the failure of private property in Romania in the last decade of the previous century, accusing the political decision-makers of the time not only of a lack of vision but also of a lack of a real intention to reform the institution of private property and of a real will of concentrating the private property into the power of a few privileged. At the same time, we should note that the particularities of the communist regime in Romania shaped the collective mentality of the Romanian nation in such a way that for the vast majority of the country's citizens, a correct understanding of the institution of private property would probably have been an exercise far too difficult for that era.

Without denying the common conclusions of all the mentioned authors, it is necessary to highlight the fact that, as stated in a report on Romanian privatisation by the Romanian Academy, citing the Statistical Yearbook of the National Institute of Statistics (N.I.S.), collection 1997-2000 (Sava, Ciutacu, 2002), between 1990 and 2001, the share of the private sector in G.D.P. increased by about four times, from 16.4 % in 1990 to 65.9 % in 2001. Therefore, what can be questioned is not the phenomenon of privatisation of the Romanian economy after the Revolution, *per se*, but rather the extent to which most Romanians have truly benefited from the effects of this phenomenon. In other words, the strategic Romanian vision is questionable with regard to its finality, as it did not lead to a broad and equitable distribution of property rights over the means of production in society, but, finally, in fact, rather to the concentration of the majority of these rights in the hands of a narrow elite composed of both domestic and foreign elements.

This phenomenon of concentration of ownership did not remain isolated in the first decade of the transition, but continued into the new millennium and produced new effects until the present period. For understanding the current context, it is relevant to mention that although there was a decrease in the number of Romanian shareholders during the 2000s, it remained high. However, this did not necessarily translate into a notable increase in the interest of Romanian shareholders in effectively exploiting their own property rights held within commercial companies. Therefore, in an article dated August 2015 (Digi24, 2015), the CEO of the Bucharest Stock Exchange stated that over eight million Romanians own shares listed on this exchange, but millions of them are not even aware of their shareholder status (in other words, they simply do not know that they own shares in various commercial companies).

At the same time, from the statements of brokers interviewed in the same article, it appears that many such shareholders are not interested in the situation of the companies in which they hold shares and do not even request the dividends due to them as shareholders, with the professionals interviewed attributing this widespread attitude of passivity to ignorance and to a precarious level of information. We specify that at the date of the writing of this paragraph (14 April, 2023), there were, according to the records of the Central Depository, 8,343,536 holders of shares listed on the Bucharest Stock Exchange (please see: <https://www.roclear.ro/Statisticii/RepartizareDetinatori>, but please note that the database is updated on a daily basis). From the information previously brought to the reader's attention, it may be inferred

that the general level of information regarding the exploitation of property rights related to factors of production has remained relatively low, and the attitude of Romanian owners towards such rights remains largely governed by disinterest, ignorance, and passivity. This, in turn, could indicate that there has not been an organised and sustained effort to inform and educate the general public about the exploitation of the individual's share of what initially constituted collective property rights.

The negative information that we have presented earlier should not, however, lead us to the erroneous conclusion that the acquisition of property rights through the purchase of shares is a negligible aspect in contemporary Romanian economy. Thus, based on the results of a very recent study conducted by Cornerstone Communications (a local consulting firm specialising in investor relations and capital markets advisory and by MIA Marketing (a Romanian market research company) on professional investors who / which trade stocks on the Bucharest Stock Exchange, an author (Constantin, 2023) concluded that, in the year 2022, 74 % of these professionals bought more shares than they sold, with 55 % of them stating that they have prepared an investment plan for 2023 based mainly on buying shares. At the same time, 40 % of the interviewed professionals stated that they want to maintain their *status quo* in 2023, and only 5 % claimed to have built a strategy mainly focused on selling the shares that they own. Despite the fact that these data may seem optimistic, we should consider both the relatively small sample size of the cited study (326 investors), as well as their quality as professional players on the stock exchange. Therefore, we consider that the cited study, although it is essentially optimistic, is less representative for the vast majority of entrepreneurs operating in Romania, and even less so for Romanian entrepreneurs in particular, and for the general population of Romania, in general.

5.2 The Intentions to Acquire Private Property and the Obstacles Caused by the Dysfunctions of the Public Sector

Overcoming the conceptual difficulties faced by millions of Romanian shareholders, it is equally noteworthy that Romanians' appetite for private property in the economic sense takes forms other than exercising their rights within the companies in which they are shareholders. Moreover, the current legislative framework offers numerous other possibilities for acquiring and exploiting private property in the economic sense than involvement in joint-stock companies, as the legislation allows, as it is well known, both the functioning of partnerships (the most well-known being limited liability companies) and of forms of association without legal personality (for example, partnerships which involve the pooling of factors of production without the establishment of a new entity with legal personality). Given that aspect, a local study, cited in the European and governmental funded document entitled "A study on entrepreneurship in Romania" – a document published in September 2020 (Educativa S.R.L., 2020), shows that as of March 2019, one in two urban Romanians viewed entrepreneurial activity (which, by its nature, involves to a greater or lesser extent the acquisition and exploitation of property rights) as a

career option, meaning that they want to become entrepreneurs (*i.e.*, in the present work's nuance, holders of property rights over the factors of production). In short, these data unquestionably underline the Romanian population's aspiration to acquire and exploit capital, and implicitly, to assume entrepreneurial risks.

Such results do not entirely surprise us, even in the context of the (at least) *debatable* privatisation of the economy that began and evolved in Romania, given the subsequent “Westernisation” of the Romanian economy and society and the liberalisation of the Romanian market in accordance with the requirements imposed by the European Union. Despite this widely prevalent open attitude among the population, the implementation of entrepreneurial intentions (*i.e.*, the assumption of the role of owner and operator of factors of production) is inhibited, as noted in the same study (Educativa S.R.L., 2020), by factors such as bureaucracy (the most powerful discouraging factor), the unclear and unstable legislation, the poor relationship with public authorities, the excessive taxation, or corruption. It should be emphasised that these inhibiting elements are primarily the result of the still-deficient functioning of the Romanian state, specifically of its public sector, which is why we can assert that the recurring problems of its functioning are elements that discourage and impede the acquisition of new property rights, given that they inhibit the very manifestation of the population's spirit of free initiative.

Moreover, recent statistical data provided by Eurostat further supports the strong sense of ownership that characterises the majority of the Romanian nation. According to data published in December 2021, 95.30 % of the population in Romania lived in a household owned by their home, while the remaining 4.70 % lived in rented housing. For clarity, it should be noted that, according to the same data source, only 69.90 % of the population in the European Union was living in self-owned housing, with the lowest percentage of homeowners in the European Union (49.10 %) being recorded in the largest economy in the Union, namely in Germany.

Clearly, the purpose of these statements is not to create confusion between property rights over goods intended for personal use and consumption and goods intended for profit-making within a company. Rather, our purpose is to underline that an intention (a will) to be an owner, namely, a genuine *instinct of ownership*, characterises our collective mentality. Thus, we can affirm that the data indicating the interest of a large portion of the Romanian population in acquiring economically exploitable properties, as well as the data indicating that the overwhelming majority of Romanians possess property over essential goods intended for their own needs (*e.g.*, the need for shelter), lead to the common conclusion of the pronounced and widespread nature of this so-called *instinct of ownership* in Romania. We consider this conclusion to be absolutely essential in order to understand the close relationship between the collective mentality of Romanians (which influences their economic decision-making process) and private property.

5.3 Lack of Funding and of Knowledge

The lack of funding is another obstacle that often prevents Romanians from acquiring factors of production and starting viable businesses. For example, a recent study conducted by B.R.D. Bank and analysed in an article in the business media (Andriescu, 2023) concluded that 63 % of entrepreneurs are at risk of losing business development opportunities due to the overly complex procedures for accessing non-repayable funding. A primary difficulty that emerged from the study is the verification of the business plan's compliance with the criteria required to access a particular funding line, an aspect that revealed that 49 % of respondents feel the need to collaborate with an expert in obtaining financing. The mere existence of non-repayable funding programs supported from the state budget or from the budgets of the European Union (such as *Microgranturi, Măsura 1, Măsura 2, Schema HoReCa, Start-up Nation, Femeia Antreprenor, A.P.I.A. financing, I.M.M. Invest PLUS, Programul Național de Redresare și Reziliență*), while undoubtedly opportune, is not enough as long as potential beneficiaries do not have the necessary information and knowledge to successfully navigate the financing procedures.

In this regard, public authorities could contribute by carrying out public information campaigns and by establishing procedures that are as clear, transparent, and less open to interpretation as possible, while the private sector specialised in consulting could promote its services through advertising campaigns.

The issue of bearing the costs necessary to acquire the means necessary to carry out productive activities is also highlighted by studies regarding entrepreneurs' use of their own funds in order to support their businesses. Such a study of the Global Entrepreneurship Monitor, cited by C.E.C.C.A.R. towards the end of 2016 (C.E.C.C.A.R., 2016), stated that around 98 % of Romanian entrepreneurs rely on their own funds when starting a business, with their own money covering an average of 66 % of the financing needed for the new business. According to the same study, only 26 % of Romanian entrepreneurs borrow from credit institutions in order to start a business, with only 27 % of entrepreneurs benefiting from government funding. In the context of the well-known difficulty that many compatriots face in procuring their daily necessities, it is reasonable to conclude that for many Romanians, self-financing a business, *i.e.*, purchasing sufficient factors of production, is a problem of an increased difficulty and more of an aspiration than a serious possibility.

5.4 The Tough Competition for Private Property Rights

The difficulties faced by the population of Romania, or more precisely, by the majority of local entrepreneurs in acquiring property rights, are highlighted, as expected, with respect to those factors of production that are susceptible to large-scale exploitation, over an extended period of time, and whose exploitation brings a significant share of the national wealth or, from another perspective, those capital elements whose acquisition involves high patrimonial efforts. With regard to such elements, a significant part of them is actually acquired by a limited number of entrepreneurs, with Romanian or foreign capital, which have considerable financial

power and, equally important, the necessary experience to cope with the disadvantages of the Romanian business environment and of Romanian bureaucracy. For example, an article from the second half of 2021, based on data released by A.P.I.A. (Nițu, 2021), highlighted the ownership of 2.5 % of Romania's arable land (*i.e.*, 250,000 hectares) by a number of only 20 (twenty!) landowners (*i.e.*, professional farmers), foreign landowners from both within and outside the European Union being among them. Therefore, the Romanian entrepreneur finds itself in the situation of competing for the acquisition of factors and resources that could be exploited for obtaining substantial profits both with relatively few Romanian entrepreneurs which already enjoy an extremely advantageous patrimonial situation and also with foreign entrepreneurs – either transnational companies with a long-standing experience and a solid reputation and tradition, or economic agents who / which more or less speculate on the opportunities (or even vulnerabilities) of the Romanian business environment.

It is difficult to accurately quantify the extent of the competition for the ownership over resources between domestic and foreign capital, even though the existence of this competition cannot be denied. From our perspective, there are two main reasons why it is challenging to mathematically represent the magnitude of this kind of competition. First, not all economic resources are recorded in official publicity systems, where the identity of the owner of a particular asset at a certain moment can be publicly known (such as in the case of real estate, with the cadastre and real estate publicity system): in other words, official data are not always available. Second, the competition we are referring to is frequently "masked" by the presence in the Romanian corporate environment of companies that, although they appear in statistics as Romanian legal entities, actually represent the vectors of foreign economic interests.

To better understand the second reason, it could be relevant to present a conclusion from a reputable press entity in the agricultural sector (AgroStandard, 2021), which is based on data obtained from the National Agency for Cadastre and Real Estate Publicity. According to this source, foreign citizens own only 0.3 % of Romanian arable land (approximately 21,000 hectares of arable land). However, according to the same source, this percentage can be misleading, because most foreign economic interests in Romania acquire properties through companies they establish in Romania with foreign capital, but in accordance with Romanian legislation. Additionally, there is no official data available regarding the extent of arable land owned by those Romanian legal entities / companies with foreign capital.

5.5 A "Reluctance to Associate" In Order to Acquire Co-Ownership

It is important to note the tendency in numerous areas of the Romanian economic life for owners of capital to hesitate in considering the hypothesis of acquiring co-ownership by multiple individuals or at least pooling the individually owned factors. In other words, Romanian owners, whether individuals or companies, prefer to base their activities on the exploitation of their own property rights rather than on the acquisition of co-ownership rights or on the long-term pooling of their own factors

(capital). Another finding in agriculture supports this conclusion: according to a study published very recently, in February 2023 (Măț, 2023), the average size of a Romanian farm is of only 4.42 hectares, with 54 % of farms having less than one hectare (!) – despite the fact that 92 % of farms own agricultural land – and, on the other hand, 98 % of farms that exploit their own land are organised as individual households. These data not only show a pronounced tendency in Romania towards the exploitation of agricultural land for "family" (or, in less euphemistic terms, subsistence) agriculture, but also a serious reluctance of Romanian landowners to associate for the purpose of exploiting large areas of arable land more efficiently.

We consider that one main cause of this hesitant trend is represented by the relatively recent historical evolution of Romanian society and economy, characterised both by the notorious collectivisation of the communist period and by the frequent deviations from honest commercial practices that have characterised the last three decades to a not insignificant extent. These historical aspects can be reasonably classified as certain of the causes of Romanian distrust in association in sensitive areas such as agriculture, as exemplified above.

This "reluctance to associate" has a direct impact on the possibilities of realising the vocation of private property, as well as, in an interesting way, on the establishment by potential owners of their particular limits of this vocation. Thus, in the absence of long-term associations, there is no context for pooling funds for the acquisition of costly means of production, but there is also no hypothesis in which the acquisition of these factors can be justified in terms of the balance between benefit and loss. For example, an individual household that practices subsistence agriculture on a plot of land measuring approximately one hectare not only is very unlikely to have the necessary amount of money to purchase a modern combine, but given the limited cultivated area, this household would not normally need a combine for its own limited agricultural activity. It is difficult to establish how long or even how many generations it will take for Romanians to fully realise the potential of their option to collectively exploit their resources and to associate for the purpose of pooling them in order to acquire new elements of capital that would be impossible or extremely difficult to obtain through individual efforts, or even unnecessary in an individualistic context.

Similar conclusions emerge from a report of the Ministry of Agriculture and Rural Development of the year 2015, which highlights the specific negative connotation of agricultural cooperatives in Romanian rural areas, a connotation attributed to the tragic events during the communist era. The same report presents data that confirms our concerns regarding the "reluctance to associate": thus, in 2015, less than 1 % of Romanian farmers were part of any form of agricultural association, while the European Union average was of 34 %. The mistrust of Romanian farmers towards associative forms of farming limits their chances of acquiring the technology necessary for a modern agriculture, as duly noted in the same report, which refers to the limited capitalisation opportunities for isolated farmers (in terms of our work: the difficulty of acquiring ownership over systems, facilities, biotechnology and equipment necessary for a high-performance and

modern agriculture). Additionally, the report attributes to the Romanian mistrust in associative forms of work the following paradox: although Romania has approximately 3.9 million agricultural holdings out of the approximately 13.7 million in the entire European Union, the average size of a Romanian farm is of only 3.5 hectares, compared to the European average of 12.6 hectares. Last but not least, we are pleased to note that the Ministry of Agriculture, in the same report, puts forward the thesis that we also support, namely that association can be an efficient solution to the problem of financing of potential new investments (in other words, a solution also adequate for obtaining new property rights). Interestingly, in the Ministry's view, association would also increase farmers' chances of acquiring the necessary technology by successfully navigating the procedures for obtaining European funding.

It is important to emphasise that a widely prevalent attitude of avoiding associative forms of business and co-ownership can be observed in numerous other areas of the economic life, not just in agriculture. From our perspective, in order to overcome the still existing prejudices regarding the associative forms, Romanian entrepreneurs from various domains could be encouraged, in an initial phase, to more frequently resort to associative forms that do not involve transferring ownership rights or acquiring joint property, such as joint venture partnerships. Joint venture partnerships are a form of association allowed by Romanian legislation that do not require the establishment of new legal entities or the relinquishment of the associates' properties, but rather the mere pooling, in factual terms, of the resources already owned by each individual associate. After Romanian entrepreneurs discover the advantages of joint venture partnerships, we do not exclude the possibility that their interest in acquiring new resources as joint property could become a genuine one, with Romanian entrepreneurs turning, thus, to the next level in terms of association.

As a final remark regarding the Ministry of Agriculture's report, which is necessary for a clearer overview, it should be noted that the report highlights the fact that the number of associative forms of agricultural exploitation has increased by 184 % during the period 2010-2012. Furthermore, in the year 2014, 64 % of the surveyed "young farmers" expressed their favourable opinions on the possibility of being included in an association. Although substantial percentage increases do not indicate a widespread phenomenon when the initial numerical base is low, and unfortunately, although the report does not provide a definition of the term "young farmers", these data plausibly indicate that concerns about association, which may be the result of historical collective traumas, naturally tend to diminish over time.

It is also worth mentioning a recent situation in the Romanian economy that has demonstrated a somewhat reduced hesitation toward the idea of association of Romanian economic operators: the association of multiple farmers in Transylvania for the acquisition of the sugar processing unit in Luduș City, Mureș County, from the French corporation Tereos (an acquisition that did not materialise, as Tereos eventually preferred to sell the unit to two other investors).

5.6 Preventing and Combating the Unfair Competition for Private Property Rights

In Romania, as in probably all democratic states in the world, the acquisition of goods can also be done for the purpose of hoarding. The right to private property is, by its very essence, unconditional in terms of the concrete use of the property object by the owner. There are very few legal means by which the underutilisation or inadequate exploitation of the acquired factors of production can be sanctioned. In practice, the role of sanctioning economic agent falls to the market, which rewards those who use their acquired resources in accordance with its demands and deprives of economic success those who do not efficiently exploit their assets. Furthermore, in a market economy, it is not, in principle, the competence of the authorities entrusted with enforcing the law to determine what is and what is not a judicious use of private resources, and they do not have the right to oppose the owner's will not to exploit the property or to exploit it inefficiently. What current Romanian legislation does not allow is not the non-exploitation or inefficient exploitation, but the deterioration of certain capital elements considered to be of particular importance. For example, Romanian legislation imposes fines for the failure of owners to prevent the deterioration of fertile soil or for the accumulation of waste on such soil.

However, what a responsible state, as we presume that ours is, not only could, but must do, is to prevent the acquisition of factors of production through economic and legal operations that involve elements of illicit origin. In a straightforward approach, we assert that money laundering, namely the acquisition of capital elements that, when valued, bring new and, this time, lawful gains, must be prevented and combated in the most efficient manner. Although the crime rate is relatively low in Romania (our country having a criminality score of 4.59 in 2022, according to the Global Organised Crime Index: <https://ocindex.net/country/romania>), the notorious presence in the social landscape of elements such as significant corruption and organised crime leads to the conclusion of the necessity of an increased vigilance of those Romanian authorities specialised in law enforcement. Thus, what these public authorities can and must prevent is, in fact, the joining of individuals who have pecuniary resources, sometimes significant ones, as a result of law violations through various means, to the competition for production factors already existent between honest Romanian and foreign entrepreneurs. In this regard, an efficient public policy is needed, as the mechanisms of the free market are no longer sufficient to prevent this kind of unfair competition for private property rights. In simple words, what we consider to be important is not only to have the guarantee that Romania does not become an attractive destination for laundering dirty money (the criminal policy dimension of the problem – which falls outside the scope of this paper), but also that the factors of production do not pass into the ownership of those who / which could not acquire them using only resources obtained through honest means (the economic and social dimension of the problem – which is very relevant from the perspective of the scope of the current paper).

We consider it relevant to draw attention at the current stage of the paper to the following aspect, which has a subtle connection to our theme: according to data

published by the National Agency for the Management of Seized Assets, operating under the administrative supervision of the Ministry of Justice, the total value of assets which were confiscated through legal measures is of 16,998,357.87 RON (approximately 3,400,000 euros), based on the most recent data from this public agency (as of 2021 – source: <https://anabi.just.ro/bunuri/valorificarearea-bunurilor-confiscate-in-2021>). However, from our point of view, the volume of assets used in criminal activities or resulting from criminal acts that are confiscated by the Romanian authorities is relatively low, considering that Romania has a medium-level crime index compared to other European countries (according to the Global Organised Crime Index, Romania ranks 22nd out of 44 European states in terms of criminality score). In other words, our opinion is that the Romanian authorities' efforts in confiscating illicit assets should be more substantial, with more significant and measurable results (considering, for example, that, according to the findings of Financial Intelligence in 2022, the total damages from cases pending solely within the National Anticorruption Directorate amount to approximately 648,207,688 euros.). We have brought this aspect to the attention of our readers because, in our view, a state's interest and success in confiscating illicit assets can suggest the extent to which that state opposes the unfair competition for economically relevant resources between the representatives of the *legitimate capital* and the representatives of the *illicit capital* (including here the representatives of “white-collar crime”).

In practical terms, as long as we would reasonably presume that the authorities do not demonstrate a high level of efficiency in confiscating illicit assets, we could reasonably assume that there remains an increased risk for these representatives of the *illicit capital* to have, in certain situations, superior material resources compared to representatives of the *legitimate capital*. This could potentially give them an advantage over the latter in this specific competition for new property rights.

Although acquiring property rights with funds of dishonest origin can bring, in abstract terms, economic benefits (the economic outcome not being negated by the financing source of an acquisition), such a possibility must always be invalidated, simply as it contravenes the rule of law and the widely accepted ethical standards.

5.7 The Harmful Effects of the Difficulty of Acquiring Private Property Rights

The difficulty in acquiring property rights in an economic sense leads to harmful effects not only in the economic sphere, but also in the social and even political dimensions, with such effects being visible today in the Romanian economy and society. Among these effects, we consider to be and we can list succinctly: (i) the creation of excessively high barriers to entry in various markets and in the business environment in general, which can discourage entrepreneurial spirit and the association of individuals and capital for the organisation of viable enterprises; (ii) the demotivation of human capital, which can occur when individuals form the belief that it is extremely difficult or even impossible to reach the level of ownership that could offer them a satisfactory level of material security; (iii) the creation of

oligopoly markets in economic activities where the majority of production factors are concentrated in the hands of a small number of owners, with all the harmful consequences that characterise such markets; (iv) the speculation of private property in the context of the risk of the number of owners to be reduced, to the detriment of demand, and in the unjustified and unfair benefit of supply (for example, speculation in the rental market in certain cities, like the notorious case of Cluj-Napoca, or speculation in the leasing and intermediation of transactions with fertile soil); (v) proletarianisation of large masses of people, (vi) creation of social enclaves, (vii) conflicts between social classes and tensions between owners and non-owners; and the (viii) capture of political and decision-making power by the minority that would manage to accumulate the majority of property rights over the relevant capital elements, followed by economic and legislative policy measures aimed at maintaining the *status quo* (a situation that we consider to have already become obvious in Romania for several years).

We consider that special attention should be given to the risk of inequities and disparities in terms of wealth distribution, which we assume to be a real problem of the nowadays Romania:

Regarding the inequalities resulting from wealth redistribution in society, we note that the high level of the Gini index for Romania (34.30 % in December 2021, according to Eurostat data cited by Trading Economics: <https://tradingeconomics.com/romania/gini-coefficient-of-equivalised-disposable-income-eurostat-data.html>), which is higher than the level of this index in the same reference period in European states such as Spain, Italy, Greece, Germany, the Netherlands, France, Croatia, Hungary, Czechia, Slovenia, Sweden, Denmark, Finland, etc., on the one hand, may lead to the logical conclusion that in an economy such as the Romanian economy, which is characterised by significant inequalities between individuals, competition for property rights acquisition is also characterised by significantly unequal conditions, and on the other hand, it may equally suggest the reverse side of the coin, in the meaning that the acquisition of such rights by the favoured segment of society is likely to further accentuate the already existing serious inequalities, over time (as the increase in individual prosperity is essentially conditioned by the exploitation of factors of production, and the exploitation of factors of production is, in principle, conditioned in its turn by their prior acquisition).

Furthermore, we consider relevant to mention in the same regard one of the conclusions of a report of the National Bank of Romania on financial stability, published in June 2019, which states that the wealthiest 10 % of Romanian households hold approximately 60 % of the national wealth, this fact reflecting a high degree of wealth inequality risk. The same report indicates that 71 % of the value of Romanian bank deposits are held by only 5 % of depositors. In the context of such significant disparities resulting from the distribution of wealth in our country, the competition for new property rights can only be seen to take place from significantly unequal positions. Moreover, within the same page of the report, the National Bank remarks the tendency of accentuating wealth inequality compared to its previous report in 2018 (NBR suggesting the somewhat paradoxical nature of

these findings in the context where Romania is the EU Member State with the highest percentage of population represented by real estate owners).

Moreover, the "privileged" statistical segment, which holds the majority of national wealth, could be presumed to exhibit a quasi-permanent tendency to expand the percentage of wealth it owns also by acquiring property rights from the other "less privileged" segments of Romanian society. Notable examples include those well-known situations where small rural households have sold their fertile land to large-scale farmers, sometimes at prices below market value. The reasons for which certain transfers of property rights from "small-scale owners" to "large-scale owners" were conducted below market prices remain debatable and they need to be assessed on a case-by-case basis. For example, they could be explained due to the lack of knowledge about the market system and conditions, as with respect to the property sellers, or due to their urgent need for money. Additionally, the Romanian State's efforts to properly inform and educate these "small-scale owners" for a proper understanding of the relevant market (*e.g.*, in our example, the fertile land market) remain questionable at best.

We cannot overlook, in our attempt to bring to the attention of the readers the fact that wealth acquisition (namely, primarily through property rights, either over goods or over claim rights) is becoming increasingly unlikely for many Romanians, the mention that immediately after the Revolution of 1989, Romania was one of the states in the current European Union space that had some of the smallest discrepancies in terms of wealth between its citizens. This conclusion was reached by an author who studied the evolution of economic inequality trends in Romania based on statistical data provided by the National Institute of Statistics (Precupețu, I., 2013), noting that in 1990, immediately after the Revolution, the Gini index had a level of only 22.70 %, gradually evolving to 34.50 % in 2009. Indeed, as we also noticed by correlating the data provided by reliable sources (*i.e.*, Trading Economics), this index reached its peak in 2016 (37.40 %), subsequently stabilising slightly above the 34 % threshold and gradually declining to 32 % in 2022. What we consider essential to be noted is that, for a little over three decades, Romania has become one of the most unequal states in Europe in terms of wealth distribution, although it started, at the time of its transitioning to a capitalist economic system, from being one of the most "egalitarian" European states in terms of wealth distribution.

The aforementioned author highlights, within the same 2013 work, several macroeconomic issues closely related to the discrepancies she observed, with the article emphasising the problem of a significant portion of the population being exposed to the risk of poverty, one of the concerns expressed by the same author being the existence in Romania of a division between a narrow, isolated, and wealthy elite and, on the other side, a large mass of impoverished individuals. However, from our point of view, the possibilities for a poverty-stricken individual to acquire properties and to exploit them profitably and in fair competition with wealthy individuals are, in reality, illusory, and they could only materialise in isolated cases, *i.e.*, in very rare and highly specific life situations (for example, if the poverty-

stricken individual would receive an unexpected inheritance, or if he / she would earn high income, *i.e.*, a starting capital, from patenting an invention, or due to his / her exceptional sporting or artistic achievements).

Furthermore, please note that as long as the collected data indicates significant difficulties in acquiring new properties, on one hand, and a pronounced trend of accentuating inequalities in terms of wealth, and also the concentration of property rights in the hands of the relatively small segment of the privileged individuals of the recent decades, on the other hand, the probability of the question posed as the title of this article receiving a positive (and well-argued) answer becomes a high one.

6. Conclusions: Acquiring Property Rights over Capital Elements is Still Facing Specific Difficulties that Potential Owners in Romania need to Overcome

The data highlighted succinctly in this paper emphasise the fact that acquiring property rights over capital elements is still facing specific difficulties that potential owners need to overcome. These difficulties have multiple causes, including a specific historical background, financing obstacles, intense and unequal (and sometimes unfair) competition for these rights, a lack of information and knowledge about how financing difficulties could be overcome, and the reluctance of interested parties to associate for the acquisition and common exploitation of such factors. These causes are due to both recent and relatively recent historical and socio-economic developments in the Romanian state, and certain dysfunctions of the Romanian public sector (*i.e.*, public administration) and economy.

From our point of view, formed as a result of analysing these causes, certain economic and legislative policy measures could help overcome the analysed difficulties. As previously mentioned, the Romanian state provides non-refundable funding for business asset growth, but it is essential that the procedures for obtaining funding to be transparent and prevent any abuse and unjustified differences in treatment. Furthermore, more pronounced guidance from public authorities regarding the financing of potential beneficiaries would be desirable. Similarly, to facilitate property acquisition through entrepreneurship association and the pooling of resources, the state's fiscal policy could be adapted to encourage joint capital acquisition. Such support measures for the entrepreneurial environment should be in line with European legislation governing state aid, therefore, it should not be overlooked that the intensity of such measures should still remain limited. Finally, we are convinced that the Romanian state must make much more consolidated efforts to inform and educate the general public to increase the overall level of entrepreneurial culture necessary to understand topics such as the rights that social parties confer on their owners in a society, obtaining financing for business development, or opportunities for association through the pooling and exploitation of factors of production. In summary, by acting in these directions, the Romanian state could reduce the effects of the causes for which we consider that the acquisition of private property rights in economic terms is (relatively) difficult today in our country.

Without detaching ourselves from the above summarised distributist theory, we notice that a certain degree of spread of ownership over the factors of production among the members of a society like ours, which is organised on the principles of a market economy, leads to the emergence or, as the case may be, to the consolidation of a system of small and medium-sized enterprises, and subsequently, from a social point of view, to the shaping or consolidation of a middle class, which contributes significantly to economic prosperity and to social and political stability, but also to ensuring a generally tolerable climate in terms of equity and social justice. The disadvantages of an economy dominated by monopolies and oligopolies, and complementarily, of a system of macro-social organisation in which an ultra-privileged minority coexists with a pauperised and proletarianised majority, are well known and very difficult to subject to serious criticism. Moreover, such a socio-economic organisation of a country would be difficult to reconcile with the notion of a social state, *i.e.*, a state organised according to the principle of social justice, as Article 1(3) of the Romanian Constitution (2003) specifies that Romania is.

It is essential to emphasise that encouraging the acquisition of private property rights over capital elements should not be viewed in isolation from the principle of maximising the efficiency of exploiting each element, nor can it be viewed and conceived in isolation from the general economic and social policies. It should also be noted that this paper represents a brief and indicative exposition that has aimed to highlight certain general trends in a general manner, and this analysis needs to be further developed in order to substantiate specific measures aimed at improving the identified issues from a technical perspective.

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