1. **Introduction**

As years went on, the Romanian society has faced many changes, lots of them being about the legal relationship between individuals. These developments have created the need of a well based legislation concerning legal agreements, especially in terms of land-law. The most challenging period that Romania has had about this topic, was in 1949 and after 1989, when the Revolution has happened, and the period of communism has faded away. Before the revolution, almost all agricultural lands were State property, and transformed them into farms administrated by the state, this being the Collectivization process. Its process lasted from 1949 to 1962, with a stagnated period of 3 years. It was realized in three stages; stage 1 (1949-1953) with the Decree number 84, where all properties bigger than 50 ha were expropriated, alongside with the animals, tools and buildings that were on that land. It was followed by the stagnation stage (1953-1956) when Stalin died and the oppression from the Soviet Union has decreased. Stage number 3 (1956-1962), the last one, represented the final picture for this communist view, achieved in the most violent possible way. After the Revolution of 1989, the government worked to reinforce the right of private property for agricultural lands and passed a law to give back as much of the territory back.

After 1991 the country saw a steady increase in private property and land distribution became excessively fragmented. During the communist period only 9.5% of the agricultural land was privately owned, while in 2005 that percentage changed to 99.5%.

In 2018 there are still issues with the redistribution of land which was taken by the state during when it was centralized. There are still around 33000 citizens who are yet to claim back the lands that were taken from them. Article 1(1) of Law no. 10/2001, which is one of the land reforms, states that any immovable properties taken through abusive means, between 6 March 1945 and 22 December 1989 by the state, are to be returned to the rightful owners. Section 2 of the same article states that if the restitution of the property then damages would be payed instead.

Other factors that contributed to the land reforms in Romania are the transition to a market economy, the accession to the European Union and the implementation of the Common Agricultural Policy (CAP).

Furthermore, according to a study by the Transnational Institute for the European Parliament and reported by Romania-Insider, Romania is among the top countries of the European Union whose surfaces are largely owned by foreign investors. The stretch of arable terrain not belonging to the state or nationals amounted to 40% two years ago. This suggests that percentage has likely grown by now pointing out an ongoing and “alarming” issue. The circumstances of this situation adversely affect the environment and employment considering investors logically tend to exploit the land predominantly using capital or a foreign workforce.

1. **Overview of Important Land Legislation and Regulations**

The Romanian Constitution deals with this topic in Article 27 whereby the domicile and residence are inviolable with permission being imperative to enter or remain upon someone’s property. However, (2) logical exceptions the likes of warrants, risks to other rights and national security remain applicable. Furthermore, (3) searches can only be ordered by judges and carried under conditions regulated by the law. The topic is also dealt with in Art. 44, where the right to private property is explained, more exactly that the private property is guaranteed and protected equally by law, including the owner’s duties, also for citizens of a different nationality. Along with these articles, we can include Art. 53 where it is explained that the rights or liberties may be restricted only by law, and only if it is necessary to: protect the national security, order, health or public morals, rights and freedoms of citizens; conducting criminal instruction; preventing the consequences of a natural calamity, of a particularly serious disaster or sinister disaster.

These constitutional provisions are also implemented by national-level legislation, in the Civil code. Starting with Article 551 of the Civil Code, which provides the real rights of a person (including the right to property, which may be public or private, according to Art. 552), and finishing with Article 559, the concept of private property is explained, including the content of the right (the owner’s right to possess, use and hold a good exclusively and continuously, in the limits imposed by the law), its limits, ways of acquiring the ownership (By convention, legal inheritance or by last will, accession, as an effect of the good-faith possession, by occupation and by legal decision) and the risks of loss of the good. Moreover, Articles 858-865 concern the public property right, by providing the definition (the property right that belongs to the state, or to one administrative-territorial unit upon the goods that are of use of public interest), by making the distinction between private and public domains, the cases of acquisition, but also its defense.

The purpose of this legislation is to inform citizens about their rights, to clarify possible problems that may arise and to make the legal transactions easier.

1. **Land Transfer, Allocation, and Lease**

All legal transaction concerning lands are regulated in various ways, through the Constitution and national-level laws.

For selling land located outside the urban area we have law 17/2014, which has measures to regulate it, for Romanian citizens, and foreign citizens as well (art. 2(2)), explaining that you need to make a registration at the local city hall, where you manifest your intention to sell and the administration is obligated to post the offer in its premises, or internet web page for 30 days (art. 6).

When it comes to expropriating, which represents the State’s action of taking a property from its owner, law 33/1994 (arts. 1,2) explains that this process is possible when the land will be for public use, and the owner will receive damages in return.

If you want to rent a private property, or one located outside the urban area, the legal procedure for this is lease according to Law no. 16/1994, meaning a contractual agreement, where the lessee(user) pays the lessor(owner) for use of an asset.

The problem concerning this subject would be in terms of expropriation, when the state makes a mistake and takes the wrong land, which in the end will not serve the same purpose as the initial one, or when the determined damages are not equal to the real cost of the property.

1. **Land tenure classifications**

In Romanian law there are three types of basic rights to land and buildings: ownership (freehold), usage rights (lease, usufruct, superficies) and rights under concession. The first one, the right to ownership (freehold), is explained by article 555 of the Romanian civil code. The article states that the owner has the rights to possess, use and dispose of the private property within the limits defined by the law. Article 632 of the Romanian civil code also mentions common property where two or more people can hold ownership. There can be two types of common property: common property based on co-ownership (or quota) or common property in joint ownership. In the first the land is divided between the titleholders while in the second one all the titleholders own the land together.

The principle of freedom of contract applies to the lease of property so no restrictions are imposed over these. On the other hand, if the lease is for more than three years, in order for it to be binding on third parties, the lease agreement must be registered with a special registry of the court. Leases cannot exist forever, but it has been decided that if a lease is concluded for 99 years than it would be regarded as lifetime duration.

Lastly a concession agreement is an agreement by which the state transfers a territorial unit to another person (for not more than 49 years). The person has the right and obligation to operate an object, an activity or a public service, in return for a fee.

In Romania there are two main systems for land registration. The first one regulated by the Civil Procedure code is a public registration system based on the owner. The second one regulated by Law no 115/1938 is a public registration system based on the property.