

# RAZDELITEV NEPREMIČNIN AGRARNIH SKUPNOSTI: MNOŽIČNA KATASTRSKA PREUREDITEV V UPRAVLJANJU ZEMLJIŠČ V SLOVENIJI

# SUBDIVISION OF JOINT TENURE IN AGRICULTURAL COMMUNITIES: CUSTOMARY LAND RIGHTS MANAGEMENT IN SLOVENIA

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## IZVLEČEK

V prispevku je predstavljen postopek razdružitve nepremičnega premoženja agrarnih skupnosti kot primer množične katastrske preureditve območja agrarne skupnosti. To je skupnost lastnikov zemljišč, ki obstaja več stoletij in ima v skupni lastnini ali solastnini zemljišča v vasi oziroma njeni bližini. Take oblike lastništva zemljišč so nastale predvsem na območjih, kjer so naravne razmere in raba zemljišč narekovali skupno upravljanje in izkoriščanje zemljišč, kot je na primer skupno upravljanje gorskih gozdov. Namen raziskave je bil vsebinsko in procesno analizirati postopek razdruževanja lastnine agrarnih skupnosti. Rezultat je sistematično opisan postopek operacije razdeljevanja zemljišč agrarnih skupnosti, in sicer kot množični katastrski postopek preurejanja zemljišč: od ugotavljanja obstoječega katastrskega stanja do nove parcelne strukture zemljišč. Ob tem je proučena katastrska, organizatorska in projektantska vloga pooblaščenega inženirja geodetske stroke in geodetskega podjetja v Sloveniji. Cilj prispevka je bil oblikovati konceptualni procesni model, ki bo podlaga za optimizacijo razdeljevanja premoženja med člane skupnosti. Zaporedni potek posameznih korakov razdružitve zemljišč agrarne skupnosti je predstavljen z diagrami aktivnosti v jeziku UML. Kot študijo primera obravnavamo razdelitev premoženja Agrarne skupnosti Zgornja Sorica.

## KLJUČNE BESEDE

skupna zemljišča, agrarna skupnost, tradicionalne pravice, katastrsko preurejanje, upravljanje zemljišč, množična razdružitev zemljišč, jezik UML

## ABSTRACT

This paper presents the process of real estate reallocation as a mass cadastral subdivision process of agrarian communities' customary rights. The agricultural communities have existed for centuries and have been jointly owning and using the common land. Such gatherings were developed mainly due to the unique requirements deriving from land use and relief characteristics, such as joint forest management on mountain slopes. The main objective of this research has been to analyse the process of real estate subdivision, which has its legal background in Slovenian legislation. In this paper, the process of cadastral subdivision of land owned by agricultural communities is presented as a mass cadastral land subdivision process: from preparatory work to the new geometric structure of the common land. The cadastral, organisational, and engineering role of the chartered surveying engineer and the surveying company is examined. An aim of the paper is, inter alia, to develop a conceptual model of the process that will serve as a basis for optimisation, for a more just and more efficient distribution of assets among community members. The course of the individual steps of the community established land subdivision is shown with unified modelling language (UML) activity diagrams. As a case study, we have considered the subdivision of the property of the agricultural community of Zgornja Sorica in Slovenia.

## KEY WORDS

common land, agrarian communities, customary rights, cadastral rearrangement, land management, mass land subdivision, unified modelling language (UML)

# 1 INTRODUCTION

Cadastral land rearrangements are a specific concept and a useful tool within the land administration system. We consider the land administration system to be a comprehensive system for the most detailed legal-administrative structuring of space and management of the boundaries of rights, restrictions, and responsibilities on land (Zupan et al., 2014). The unbundling of the common lands of the agricultural community (AC) is classified as one of the mass cadastral procedures of land management, for rearranging larger areas of land. The land operation in question involves the division of AC property as a consequence of taking into account the assumption of the problematic community use of forest and agricultural land and the assumption of the greater efficiency of individual land management, according to which individuals can freely dispose of their property. Agricultural communities are a traditional form of organising and managing land use in agriculture in the hilly terrain, where there is no sizeable agricultural area, in Slovenia primarily associated with livestock and forestry in the wider Alps, but also more widely (see also Cerar, Premrl and Hafner, 2016). In the narrow alpine valleys and mountain slopes, arable land and land yields were extremely limited in the past, so that mountain grazing and forest exploitation developed as a unique form of land use.

A cadastral reorganisation of land in terms of merging land into larger units and dividing land into smaller units is historically an ongoing process that adapts to changes in economic and political systems to the general interests prevailing in the current system. Cadastral procedures as a part of land management can be divided according to the scope of the treatment area and the number of considered entities into individual or mass, and in terms of content into cadastral arrangements and rearrangements (Table 1). The division of the land of AC is classified as a mass cadastral reorganisation procedure because, in addition to a larger area and a larger number of co-owners and simultaneous arrangement of a set of data (parcels), the land operation consequently ensures the homogeneous accuracy of position data (coordinates) of new and existing landmarks determined by geodetic surveying on a broader area of treatment (Čampa, 2018).

Table 1: Cadastral procedures according to the content and scope of implementation (adapted from Čampa, 2018).

Cadastral procedures Scope \ Content	Cadastral arrangements	Cadastral rearrangements
<b>Mass process</b>	Mass cadastral status arrangement of exiting boundaries (new cadastral survey)	New cadastre setting, Land consolidation, <i>Subdivision of joint tenure at agricultural communities</i>
<b>Individual procedure</b>	Individual cadastral status arrangement of the existing single boundary (parcel)	Boundary adjustment, Parcelling

The purpose of the research is to analyse the process and content of the process of separating the property of agricultural communities in Slovenia. The process of land division operation of AC is considered as a mass cadastral procedure of land redevelopment, specifically from the determination of the existing cadastral condition to the new parcel structure of the land. The cadastral and organisational role of a certified surveying engineer and a surveying company in Slovenia has been studied. The main goal was to create a conceptual process model, which can be the basis for optimising the distribution of the property of the AC in Slovenia, where it is, of course, appropriate, among community members.

## 2 AGRICULTURAL COMMUNITY IN THE INTERNATIONAL AND SLOVENIAN CONTEXT

In connection with land management approaches, in different countries of Europe and other parts of the world in the same time, there exist diverse interests among stakeholders, who can be holders of various real estate rights, investors and land administration systems at different levels of public administration. A relatively small number of international researchers deal with the topic of merging and dividing real estate in the domain of land management. However, with their publications, they provide insight into the continuity of changes in interests in agricultural and forest land.

### 2.1 International view of the agricultural community institute

The Austrian concept of 'common rural property' (*das Gemeinsame ländliche Eigentum*) was transformed into categories of Roman law as an 'agricultural community' several centuries after the phenomenon appeared. It is the joint property of the community of local farms, where the ownership is tied to the agricultural holding and not to a natural person. In the mountainous areas of Austria, the organisational forms of rural joint property are called the 'agrarian community' (German: *die Agrargemeinschaft*) and include mountain pastures and forests. In the eastern parts of Austria, such communities are called 'urbarial' communities (German: *die Urbarialgemeinschaft*), which indicates the period of their formation, i.e., the feudal period. In Austria, 10% of forest area is jointly owned by the community of local farms, i.e., agricultural communities (Weiss et al., 2015). There, it applies to all-mountain farms that in the case of inheritance, i.e., the transfer of ownership of the farm, including the forest, the farm may not be divided into several heirs, nor valued at market value, but according to productive capacity for land income. The heir can pay other heirs their shares. Since the 1950s, cooperatives of forest owners or forestry cooperatives have also been established in Austria, intended for joint work in the forest, joint purchase of forestry equipment, and joint marketing of wood (Miribung, 2020). In Upper Austria, the Forest Land Division Act (*Gesetz vom über die Teilung von Waldgrundstücken - Waldteilungsgesetz*, 1978) is presently in force; it stipulates that the size of the remaining part of the divided land must not be less than one hectare and its width must not be narrower than 40 m (see also Grüne, Hübner and Siegl, 2016).

In Italy in South Tyrol, similarly, as elsewhere in Central Europe, there was a further development of collective land ownership in the 19th century with land acquisition. In 1927, a more modern law on Public Land Use was passed there (Nequirito, 2010). In the province of Trentino, large areas of forests and pastures belonging to the community were collectively exploited. In 2019, amendments to the Provincial Public Use Act (*Legge provinciale sugli usi civici*, 2005) were adopted, including the collective rights of agricultural communities.

The Scandinavian countries have a rich tradition of land management in the field of joint ownership and management of common agricultural and forest land. Sevattal (2006) treats common land as traditional in terms of institutional reality and its impact on land use in Norway, where the sharing of pastures and forests, in particular, is a pervasive form of ownership that has been developed and maintained for centuries. Similar to Norway, common lands are known in Sweden. Ekbäck (2009) analyses different real estate rights regimes in Sweden. He justifies joint ownership of real estate as a sound form of management in order to reduce management costs in cases where a particular land use (for example forest use) represents economies of scale conditioned by the physical and technical aspects of the use in question.

In Finland, forest land is fragmented among the heirs of a large population born after World War II and are threatened by even more substantial fragmentation under 20 hectares per agricultural holding (Ripatti, 1996; Kauppi, 2016). The average size of forest real estate of an agricultural holding is only 30 hectares. The small average size of privately owned non-industrial forests is proven by logistic regression as a variable with the most significant negative impact, which adversely affects the economics of forestry. There are 334 agricultural communities in Finland, and the Act defines their management on Jointly Owned Forests (2003). The law defines the procedure for the establishment of new common ownership of forest land, which can be carried out in the process of consolidation or in a particular cadastral procedure established for this purpose. The cadastral procedure for establishing joint ownership of forests as well as their distribution is defined by the Real Estate Formation Act (1995). They perceive the positive effects of this special cadastral land operation, establishing joint forest ownership within the community (Kolis, 2016), which is much more effective compared to the forest land consolidation instrument. Joint forest ownership also provides better effects in terms of higher yields per hectare and lower management costs compared to individual ownership.

The complexity of individual and joint ownership and management of forest land on other continents is also addressed by Joralemon (1983), Behera (2006), Sarker (2009), Granier (2010), FAO (2012), Bourgeois et al., (2017), and others. The challenges of joint land management and the preservation of traditional rights in both developed and developing countries are further discussed by the authors of an extensive monograph (Haller et al., 2019), including the already mentioned Scandinavian and Alpine countries. Essential theoretical research work in the field of common land management or joint property was undoubtedly performed at the global level by Nobel Prize winner Elinor Ostrom in 2009, who presented the phenomenon of 'common land management' in a monograph (Ostrom, 1990).

## 2.2 Common lands and agricultural communities in Slovenia

Common lands or undivided lands belonging to settlements are common areas in the common ownership of the neighbourhood or co-ownership of fellow citizens, which is defined primarily by the joint use. In the past, the essential role of the community was emphasised. That meant the economic interdependence of families and villages, participation in workloads and also the socialising of members in a shared space. Hafner (2019) cites additional terms for common, undivided land, such as 'gmajna', sub-municipality, 'srenja', neighbourhood, corporation, community of interest, 'urbarial' community, land community, jus, consortium. From them, the current name 'agricultural community' has developed, which also has a social role, as it is a group of coexisting locals who together, in interdependence, use common areas, as emphasised (Križ, 2019), pastures for grazing, forest for harvesting thorns and logging, water resources for familiar watering places and establishing common easements as a community. Uršič Zupan (2019) emphasises that AC are one of the most reliable and lasting identities of a particular area, with the joint use of undivided land binding the village into an economic whole. The use and management of the common land were also influenced by local customs (Vilfan, 1996). Petek and Urbanc (2007) point out that in modern times, the economic importance of common land use is expected to recede at the expense of ecological, environmental, cultural and other aspects. The importance of preserving and maintaining ecological balance, biodiversity, open agricultural landscapes and cultural landscapes and the countryside, in general, is expected to come to the fore, which, among other things, threatens the increased demand

for overgrown areas for construction. These highlights are denied by the process as mentioned earlier of dividing the land of the agricultural community, as the common property is also separated due to the economic interests of the market sale of land, especially overgrown land near vital settlements.

Some agricultural communities combine their name with the word 'grazing', such as 'Agricultural grazing community Kriška planina' and 'AC Pasture community Velika planina', which indicates the fact that in some cases of AC there is a strong interest in grazing. There are also exclusively grazing communities, which are formally interest groups for common grazing, as opposed to the agricultural community, which is a community in terms of ownership. It is usually a complementary relationship between two forms of community in the same territory. For agricultural communities in Slovenia, which own mostly forest land or overgrown land and also have grazing interest, there is a problem that grazing is not allowed in the forest, which was allowed in the past and defined by the so-called servitude rights. However, in Sweden, it has recently been analytically confirmed that the production of organic meat with herds of over twenty suckler cows is more profitable on predominantly forested land not suitable for intensive plantation forestry (Kumm, Hessle, 2020).

Uršič Zupan (2019) emphasises that members in some agricultural communities would like to divide the common property and formally abolish the agricultural community. However, it is not necessary to distribute all the property of the AC among the members. As these are predominantly forest lands, AC strives to jointly maintain areas for the disposal of timber, water catchments, quarries and the like.

Problems with the willingness of members to participate also arise in the operation of dividing the common property of the agricultural community. Some members are not interested in working within the community, which is reflected in more insufficient participation in general assemblies, which are attended by about half of all members. Irregular participation of some members in community general assemblies is a significant problem because the decision-making process must be provided at various levels, depending on the importance of the content of decision-making, as required by law. One reason for low attendance may also be that members are in many cases no longer part of groups of cohabiting villagers from the same or neighbouring village, but some are alienated from the community or even strangers unknown to the community, such as heirs from distant places.

The interdependence of members on the community, conditioned by co-ownership and joint management of community property, is a possible but unjustified cause for concerns about the economics of exploitation of forest land and pastures, as evidenced by successful examples of joint ownership and management in other European countries.

The problem of the community's financial resources for the implementation of the division of property is often mentioned, as the AC must provide funds for the payment of surveying services to the surveying company, as well as for the payment of professional work performed by the Slovenian Forest Service (ZGS). Specifically, ZGS experts, through technological forest management plans, direct the preparation and construction of forest paths and skid trails, roads in the forest or outside the forest, necessary due to the new structure of plots after demarcation and are intended primarily for forest management. The abovementioned includes the maintenance of forest roads (Prah, 2012). The process of dividing the land of the AC is a complex challenge for surveyors, as it is necessary to find a unique solution for each AC that decides to divide the property for the most optimal and fair distribution of land among members, according to their shares.

The separation of common lands was first legally defined in the Austro-Hungarian Monarchy State Code in 1883 (Ribnikar, 1991). The law came into force only with its confirmation in each country separately, and in Carniola, it was called the 'Act on the Division of Common Lands and the Rights to Their Common Use and Supply'. With the approval of the provincial codes, Commissions for Agricultural Operations were established, for Carinthia in 1885, Carniola in 1887, and Styria in 1909. In the same year, the Act on the Protection of Mountain Pastures and the Promotion of the Mountain Economy was adopted, which shows a close connection between the grazing and joint agricultural activities. The nationalisation of all the property of agricultural communities, regardless of the land registry entry, took place based on the Agricultural Communities Act of 1947, which also abolished the then unified Commission for Agricultural Operations based in Ljubljana.

Below are some statistical data on agricultural communities in Slovenia. The number of ACs on the territory of present-day Slovenia is significantly smaller than it was before the nationalisation in 1947. At that time, according to available sources, there were around 1,000 of them. Agricultural communities can be legally registered by the Act on the Re-establishment of Agricultural Communities (ZPVAS, 1994). Registration by this law distinguishes two forms of ownership: first, community as a particular joint property *without* an indication of the ownership shares of the members; second, as a special co-ownership with an indication of the ownership shares of the members. Registration is finalised by an entry in the register of Agricultural communities.

In 1994, 638 agricultural communities with around 40,000 members were registered, managing about four per cent of the total land area of the Republic of Slovenia. Of these, 547 communities regained at least part of their nationalised property (Premrl, 2013).

In 2015, a new Act on Agricultural Communities (ZAgrS, 2015) was adopted due to discrepancies discovered in the previous law. This law also prescribes, similarly to the previous ZPVAS (1994), the establishment of the Register of Agricultural Communities (RAC), but by 2019 only 24 communities had registered. The law was intended to re-establish the importance of community and coexistence and joint management of natural resources. According to this law, the AC is not a legal entity, but it has procedural capacity.

The following are statistical data and characteristics of agricultural communities in Slovenia; the data refer to the situation in 2015 (Križ, 2019):

- The number of members of an individual AC is from 5 to 513. On average, an AC has 34 members.
- Most of ACs own 15 to 300 hectares of land. Some areas are large as a few 1,000 hectares.
- In 61.8% of ACs, property in denationalisation was returned in the form of co-ownership; 24.5% of communities were denationalised as joint ownership, and the rest as co-ownership and joint ownership. The municipality is present as a co-owner or joint owner in more than 40% of all agricultural communities.
- Around 10 ACs are still in the process of arranging/acquiring property.

The unbundling of the property of the ACS from the cadastral point of view in Slovenia has not been studied in detail to date; therefore, in this article, we will present for the first time the administrative procedures and surveying practice that has developed in this business area of surveying. The following

is a description of the methods and an analysis of the process of unbundling the real estate of the agricultural community, in which we will present all the crucial steps of land management that need to be carried out for its operational implementation.

### 3 METHODOLOGICAL FRAMEWORK

In this section, we discuss methods and approaches for conducting analyses of land subdivision of AC. In the pre-study of the topic, research methods were used, such as participation in cadastral-geodetic fieldwork of the perimeter boundary, gathering information at the general assembly of the agricultural community, interview method of operational committee members, administrative and legal experts, system analysis and process modelling method with activity diagrams in UML (Unified Modeling Language) and legislation analyses. Using the method of interviewing experts from various disciplines who are directly or indirectly involved in the process of the property division, we came to the initial information needed for systems analysis and process modelling.

We first interviewed a geodetic expert who manages the procedures of cadastral rearrangements and coordination of all phases of planning and implementation, employed in an executive geodetic company. Information on financial support for the construction of forest roads was obtained through interviews with experts from the ministry responsible for agriculture, more precisely the Sector for Agricultural Spatial Planning and Land Operations at the Ministry of Agriculture, Forestry and Food of the Republic of Slovenia. We attended the general assembly of the AC of the study case, where we posted questions to the members of the operational committee and the president of the AC in a guided interview. They revealed the process of division of common property and the role and services of the surveying company from their point of view. For additional information on AC and their activities, we conducted a guided interview with the current secretary-general of the Association of Representatives of Agricultural Communities of Slovenia (ZPASS). Relevant legal information was obtained by studying sectoral legislation.

The analysis of the process of land subdivision of AC continues with the established methodology of a unified language for UML modelling. The first version of the UML standard was issued in 1997 by the Object Management Group (OMG). UML helps to promote a better understanding of systems through various diagrams, which has already been used to model land transaction procedures (Liseč, Ferlan, & Šumrada, 2007). Each diagram provides diverse information about the system as it contains structural and behavioural aspects. UML is used in the form of diagrams to model business processes, various structures and software solutions (Liseč et al., 2008). The process of land division is presented in the article with UML activity diagrams, which also show the time sequence of individual steps.

The results of the system analysis in a unified modelling language (UML) by the preparation of members for the division of real estate and community decision-making is first discussed. The second part discusses the results from the point of view of a certified surveying engineer, contractor and coordinator of land management activities of the cadastral division of a real estate. The third part explains the relation of operational activities between the surveying company, the Slovenian Forest Service and the AC. The last part presents the results of a systematic analysis of the procedure from the point of view of the land administration system, which includes four main stakeholders: the Surveying and Mapping Authority

(SMA), the Land Registry Court, the local branch of the state General Administration Office and the local branch of the Financial Administration Office (FURS). The Agricultural community of Zgornja Sorica was considered as a case study.

## 4 RESULTS

The result of the analytical research work is a detailed presentation of all the steps of the implementation of the distribution of the common property of agricultural Communities. The process, which we modelled based on the studied legislation, interviews and case study analysis, is presented in detail with UML activity diagrams.

### 4.1 Preparation of members and decision-making of the community on the division of the real estate of AC

Introduction of the procedure of common property division includes some pre-steps. The interest in the division between eligible stakeholders is checked among the members of the AC first. Members of the AC may propose the introduction of the separation process, but they must comply with sectoral legislation. The shares of the beneficiaries' votes required to confirm the decision on the division of the AC differ according to the two laws currently in force in the field of the agricultural community (ZPVAS, 1994 and ZAgrS, 2015). Due to different definitions of shares, quorum problems can arise at the beginning of the procedure (but the problem is temporary) during the transitional period of implementation of the later legislation ZAgrS, 2015. The management of the property of the agricultural community is divided into regular management operations and operations that go beyond the framework of regular management. The latter includes any disposal of real estate as a whole, which also includes the division of property. Important information on the management of AC property that goes beyond the regular management of real estate (e.g., on the division of property) can be found in the Manual for the Application of the Agricultural Community Act (Cerar, Premrl and Hafner, 2016), namely

- The AC established under ZPVAS (1994) is subject to the rules of the Real Property Code (SPZ, 2002), which means that the consent of all co-owners (100%) must be obtained.
- In an AC established according to ZAgrS (2015), members make decisions at the general assembly of the AC, taking into account the lower level of consent concerning the ideal share; the decision on the division of property is taken by a three-quarters majority of all votes (75%) (fifth paragraph of Article 21 of the ZAgrS).

The AC of the case study was established according to the ZPVAS from 1994. There was the consent of all co-owners established. When the share of interested members is appropriate, according to the prescribed shares of consent, the AC adopts a decision on the division of joint property.

### 4.2 General description of cadastral-geodetic and forestry works in the process of division of AC property

The AC decision is the basis for the introduction of the division of the AC in the land cadastre system. That means a consequent decision of the Surveying and Mapping Authority (SMA) of the Republic of Slovenia.



The considered parcels of the AC on which the division will be carried out are marked in the information system of the Land Cadastre at the SMA. As marking parcels in a database, the SMA issues cadastral decision for the division of the common land of the AC. Operational cadastral works related to the division are performed by a geodetic company that is licensed to provide geodetic services. A certified engineer must approve the cadastral part of the study in the field of geodesy, and the approved study is the basis for the transfer of the new cadastral parcel subdivision to the land in reality. New fractures of land boundaries are transferred from the cadastral parcelling plan into reality based on geometric data specified in the land cadastral part of the study of the new land distribution. In the professional field of forest management, operational work for distribution, such as forest valuation, is carried out by the Slovenian Forest Service and the district forester operating in the area of the AC. The leading information bases for forest valuation are the forest management plan and the forest cultivation plan. Information on possible sources of financing the division operation by the Ministry of Agriculture, Forestry and Food, which would financially relieve future individual owners of newly defined land, is also essential. In the following, we present in more detail the operational procedure for the division of the property of the agricultural community in three substantively rounded parts.

#### 4.2.1 Preparatory work for the introduction of the AS division procedure

When a significant proportion of members in the AC show interest in the division of joint property, extensive preparatory work begins (, which relates mainly to the preparation or acquisition of the necessary documentation for issuing a decision to start a mass separation at the SMA and for the agricultural community's internal plan to fund the operation. At the general assembly of the AC, the provider of geodetic services presents the mass procedure for the division of a real estate.

The contractor obtains geometric and written data from the land cadastre system at the SMA, data on co-ownership of the AC common property, including encumbrances, at the Land Register and data on spatial planning acts at the Municipal Administration.

The AC establishes an operational committee, which cooperates with the contractor of cadastral land management during the implementation of the procedure. The members agree on the approach of land division, and the operational committee develops guidelines with the contractor for the preparation of a proposal for mass subdivision for land distribution. The proposal takes into account the ownership shares, the soil rating of the land, production capacity of forest sites and the accessibility of the sites (i.e., the course of forest roads and skid trails).

Then the provider of geodetic services prepares an extensive analysis of the existing situation, with the design of unique parts of the procedure and the new situation, which he presents in the study of the conceptual design, which consists of a textual description and a graphic part. The text contains conditions for the treatment of land related to natural features and traditional uses of the land, criteria for spatial planning according to local community regulations, planned management separate for agricultural and forest land, and measures for the protection of natural and cultural heritage. The graphic part of the conceptual design is made based on geometric data of the land cadastre system and contains the state before the procedure and the anticipated new state. The estimated costs for the planned scope of work, the time that would be required for the

implementation of individual works and the plan for financing the operation (sources, dynamics of payments) are presented.

The plots under consideration consist of a selection of real estate parcels that are co-owned; not all parcels of the AC need to be subject to the subdivision procedure. Typically, the boundaries of the perimeter of the land area in question are uncertain and not cadastral regulated, so after the official introduction of the joint property division procedure, the most likely boundaries of the perimeter are determined by the Settlement of the Land Plot Boundary Procedure.

With the beginning of the process of arranging the boundaries of the perimeter, the geodetic service provider also organises the process of selling or purchasing shares of co-ownership or joint ownership of the property between co-owners of the AC and the purchase of cadastral unregulated municipal roads. Some members have a great deal of interest in the sale or purchase of shares in the property of other members. As a result of transactions of theoretical shares of joint ownership or co-ownership, there is a reduction in the number of co-owners, so it is necessary to establish a smaller number of new plots than they would otherwise have to do in the absence of mutual property sales. The abovementioned reduces the geodetic costs of land division, as the number of new plots declines. Thus, at this stage of the project, the first optimisation of the division process is performed. If a member dies at the time of the hearing, the necessary heirs shall be sought before the distribution procedure is carried out. Search is done by the local branch of the State Administration Office.

The contractor shall cadastrally regulate the boundaries of the perimeter of the agricultural community's land in the presence of members of the agricultural community's operational committee according to the Real Estate Registration Act (ZEN, 2006). The contractor also surveys the power lines, paths and skid trails, as well as watercourses, barren and rocky land and land that will continue to be in joint ownership (for example, landfills for quick disposal and space for more extended storage of wood), within the perimeter. Land that is not suitable for individual use or that members continue to have an interest in jointly exploiting this land is thus excluded from the disintegration area. This procedure determines the actual size of the area of the AC is subdivided. Members of the AC review the proposal for mass subdivision at joint and individual meetings with a certified surveying engineer, followed by a discussion and amendment of the proposal. If the AC was established under the old ZPVAS Act (1994), all members of the community must approve the final proposal for mass subdivision with signatures, thus confirming a final concept of the new land distribution proposal.

Once the AC has approved the final property distribution proposal, the AC usually applies for a call for European funds to co-finance the construction of forest roads, in particular, forest skid trails. The agricultural community, which wants to invest in the arrangement of forest infrastructure, first consults the locally competent unit of the Slovenian Forest Service. They provide necessary information and forms according to which the project documentation for the co-financing application is prepared. The prepared application is submitted to the Agency for Agricultural Markets and Rural Development (AKTRP). If the application is complete, relevant, and fulfils the selection criteria, the AKTRP shall issue a decision on the approval of funds for co-financing forest infrastructure arrangements financed under the Rural Development Program 2014-2020 (sub-measure 8.4).

The surveying company informs the Land Registry Court and the Surveying and Mapping Authority of the Republic of Slovenia about the planned introduction of the mass parcelling procedure as a cadastral procedure. Based on the decision of the AC, the SMA records the introduction of the procedure in the land cadastre system and issues a decision on the introduction of the division procedure (Figure 2: Preparatory work for land subdivision of agricultural community joint property (UML activity diagram)).

### 4.2.2 Operational cadastral and forestry management

In the active part of cadastral and forestry land management within the division of AC property, the so-called cadastral and forestry management (Figure 3), the parcel boundaries of the perimeters of the considered areas are cadastral regulated, and the boundaries of those lands that will remain jointly owned by the AC are marked in nature. The area of common lands of an agricultural community, which is the subject of division, can be a geometrically rounded whole or there can be more of these areas, topologically separated parts that are scattered over a nearby geographical area, as in the case study Figure 1: Topologically separated parts of the considered area scattered over the nearby geographical area.. Outer boundaries create a geometric framework in which the division is carried out according to the selected decision-making parameters, among which the most important is the value of the forest since, in the case of the division, it is forest land.

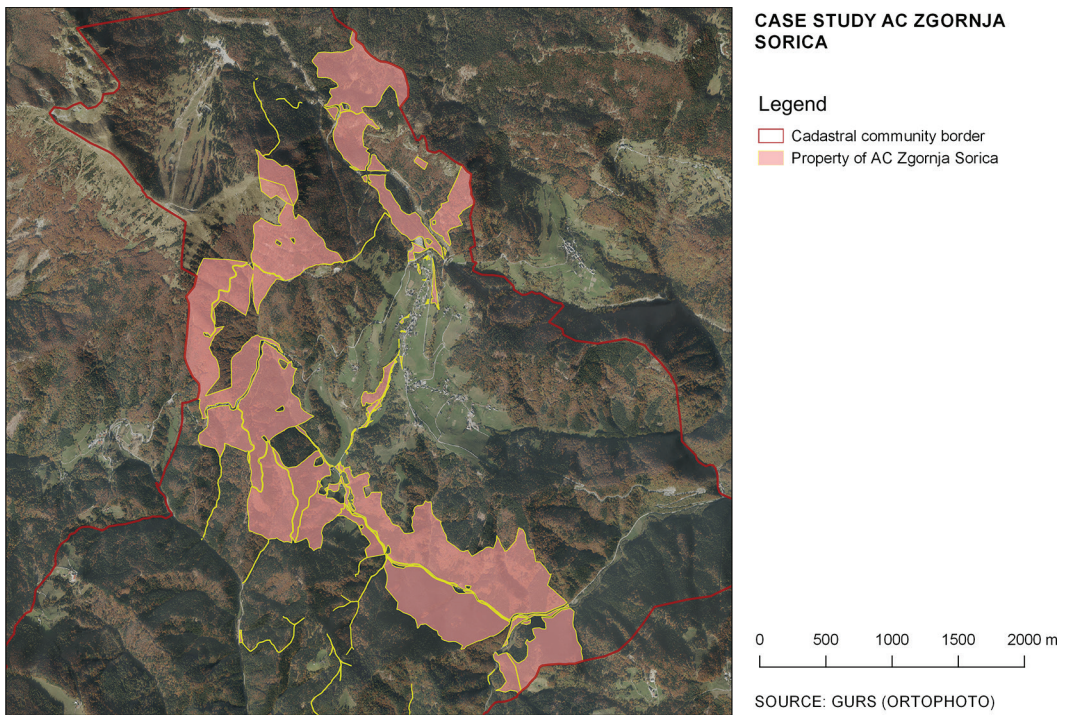


Figure 1: Topologically separated parts of the considered area scattered over the nearby geographical area.

Forest planners at the Slovenian Forest Service estimate the value of the forest which is based on the wood mass, the type of undergrowth and the type of trees growing in the area in question. In addition

to the geometric framework, the estimated values are the basis for a balanced and fair division of assets. Simultaneously with the commencement of forest valuation activities, the decision approving funds for the construction of forest roads may be issued. Members of the AC may start carrying out all necessary preparatory work for the construction of forest roads, such as felling marked trees on planned forest skid trails routes.

The Management Board of the Agricultural Community, the district forester, and the experts of the Slovenian Forest Service are stakeholders who jointly plan the course of forest roads and skid trails. Areas of timber dumps are also determined in parallel. Planners from the competent forest institute prepare a forest management plan in which they determine the priority areas for the preparation and construction of forest skid trails. The skid trails are specified in more detail in the technological part of the silvicultural plan, and the skid trails study is prepared. Foresters in the field mark the route of the skid trails and mark the trees to be cut down. In doing so, they issue a decision to cut down the marked trees. Once the skid trail is made, it is inspected by forest planners and taken over for management (maintenance of forest roads), and the easement of those stakeholders who will use it is entered on the parcel. The AC pays all the bills for the construction of the forest road from its funds. Upon completion of the construction of forest skid trails, it submits a request for reimbursement to the AKTRP, submitting the invoices paid to the skid trail contractor. If the application meets the conditions of the legal provisions and the AKTRP tender, the AC will be reimbursed 50% of the eligible investment costs.

In the existing land cadastral allocation process, skid trails are not defined as parcels. Therefore, the court competent for the Land Register also registers the easement of the skid trails on the land identified with the parcels on which the skid trails are located, at the same time as it enters the owners of individual plots of new plots in the land registry information system.

In order to enter the right of easement, in practice, the easement contract is accompanied by a sketch of the skid trails course with the cadastral parcels and a table of coordinates of points on the skid trails axis so that the geodetically defined skid trails course is clearly and unambiguously documented. The parcel method of recording a skid trail does not make sense, because the skid trails are too 'alive', often changing structure, which would soon no longer correspond in position to the previously measured corridor. Defining a skid trail with a separate parcel would also mean further fragmentation of parcels. The separate parcel would result in a much larger number of plots, and most of them would have an area less than 5 ha, which would mean that such plots could no longer be divided in the future due to the restriction prescribed by the Forest Act.

The proposal of the new Real Estate Cadastre Act (2019), Article 19 defines the cadastral determination of areas of a real easement, which refers to a part of real estate or its components. Therefore, there will be a possibility in the future to determine the boundaries of skid trails and wood landfills and geometrically determine a polygon with a parcel number or identifier for a part of the parcel, which could be the geometric basis for entering easements in the land register.

Components of the standard cadastral definition could be used, such as the polygonal geometry of the easement, geo-location and the formed parcel area of the easement as a part of the serving parcel. However, the use of this option is not in line with the objectives of optimising land management opera-

tions and improving the economics of land use, as this would inefficiently increase the number of newly created plots, significantly extend the total length of cadastral boundaries, and increase operating costs.

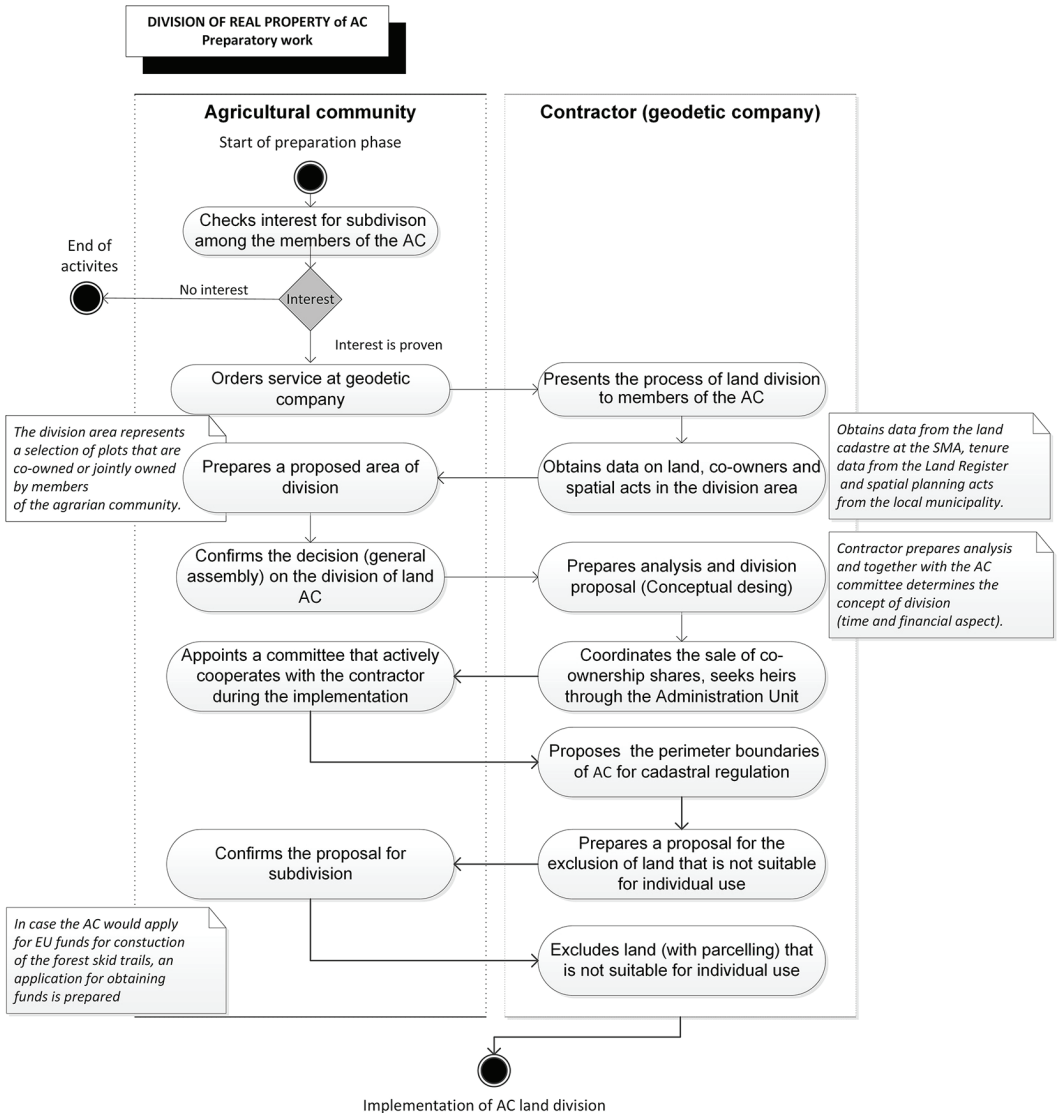


Figure 2: Preparatory work for land subdivision of agricultural community joint property (UML activity diagram).

While forestry experts and members of the AC perform forestry management tasks, the geodetic contractor is looking for an operational solution for a balanced distribution of land among the considered members of the Agricultural community. Once the solution is known, the surveyor prepares a proposal for the cadastral division of land (mass parcelling plan) and presents it to the members of the committee of the AC and consults with them. When the committee agrees with the proposed plan for the distribution of land, the remaining members of the agricultural community are invited to its official development by

invitation. Participants who do not attend the deployment are invited again. The high share of beneficiaries' participation in the deployments contributes to a simpler and faster operational implementation of the land allocation process. Of course, in order for the proposal for a new division of land to be valid, all members should agree with it, which is unusual after the first presentation of the design of the division. Members of the AC are expected to submit written or oral comments on the proposal. Most comments are usually made orally and are not the subject of records or possible minutes, which are otherwise kept by the surveyor in the process of disclosure. The participants of the presentation want to express their opinion and obtain what they desire, but they do not want to be formally exposed by written comments. Expanding and commenting can be repeated several times. After the comments have been collected, the contractor presents them again, often followed by an oral hearing. When all co-owners agree with the revised solution, the contractor also revises the previously prepared conceptual design, the so-called Study of the New Land Distribution. The study is prerequisite for obtaining funds for the construction of skid trails and serves as a basis for the registration of seals on plots in the land cadastre system and for informing the land registry court about the introduction of the division procedure. The contractor acquaints the AC with the latest version of the concept of cadastral division of land in the form of the distribution statement.

Community members sign the distribution agreement to agree with the information on the distribution statement. Comments and suggestions can even be made on the final version of the study of the new land distribution. Based on the study of the new division of land, geometrically and numerically defined parcel boundaries are transferred to reality, to land by the Real Estate Registration Act (ZEN). Landmarks mark land parcel boundaries that acquire the cadastral status of a regulated border. Members of the AC are invited in writing to become acquainted by meeting on the newly allocated land, following which, a record is kept in which individual participants sign declarations that they are aware of the course of land boundaries in nature. By this Act, they take over the newly divided state of the land into temporary possession. The temporary possession lasts until their signatures from the minutes of the meeting are notarised. The Administrative Unit issues a decision of the land cadastral part of the study of the new division of land. The parties can appeal the decision. The decision is the basis for an entry in the cadastral records. Entry is possible by showing the final state of the division only after the introduction of changes that have occurred as a result of resolving appeals against the decision on the new division. As a decision is issued, the surveying company then prepares a technical report. The report contains the cadastral situation before and after the division of land. The report also includes the procedure timeline and unique features that arose during the implementation of cadastral and geodetic works.

#### 4.2.3 System-administrative procedures for the unbundling of AS real estate

From the point of view of the land administration system, the dividing of real estate of the agricultural community includes four main stakeholders: the Surveying and Mapping Authority, the Land Registry Court, the Financial Office (FURS), and the Administrative Unit of the Republic of Slovenia (Figure 4).

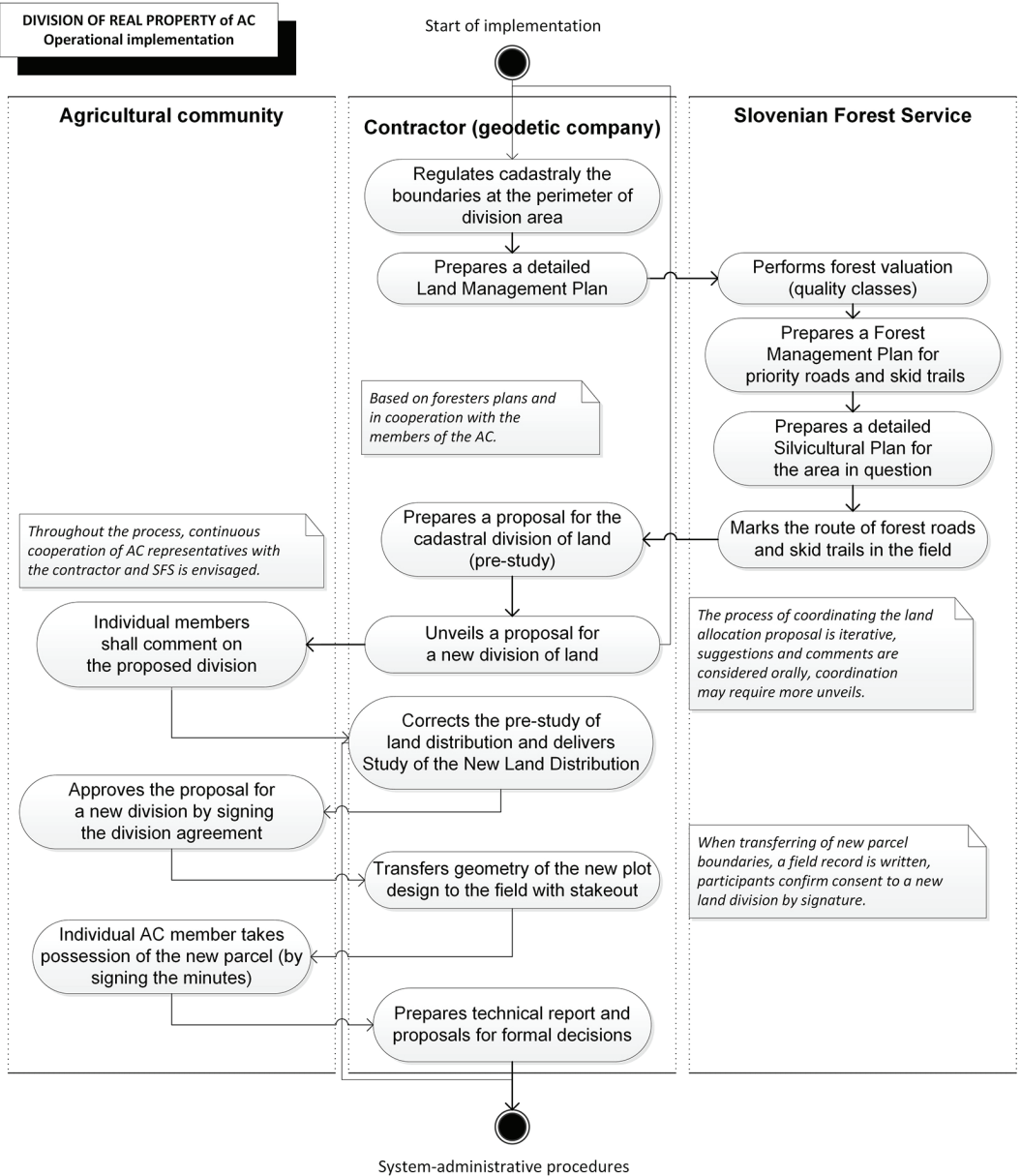


Figure 3: Implementation of the subdivision of real property of the agricultural community (UML-activity diagram).

The surveying company submits the prepared studies and the final technical report to the relevant institutions of the land administration system, which process the documents in the following order. The SMA issues a decision on the new cadastral division of land and forwards it to the State Administrative Unit, with notarised signatures of the owners. The administrative unit proposes to the Land Registry Court to register the change in the rights of landowners after the decision on the cadastral division of the area in question has become final. It shall submit copies of the land cadastral plans of the new

division of land and documents on legal transactions with land in the process of division of the land of the agricultural community. The administrative unit also forwards the final decision of the SMA to the FURS. The SMA, after the finality of its own decision, records the new cadastral condition of the land in the information system of the land cadastre. Until the registration of the ownership right in the land registry information system, the temporary owners are entered in the cadastre as data on the owners of the lands of the newly created cadastral parcels.

After receiving a final decision on the entry of new property rights from the Land Registry Court, the Surveying and Mapping Authority of the Republic of Slovenia records a new division of land with new parcels and owners in the land cadastre system, and the land boundaries receive the status of cadastral boundaries.

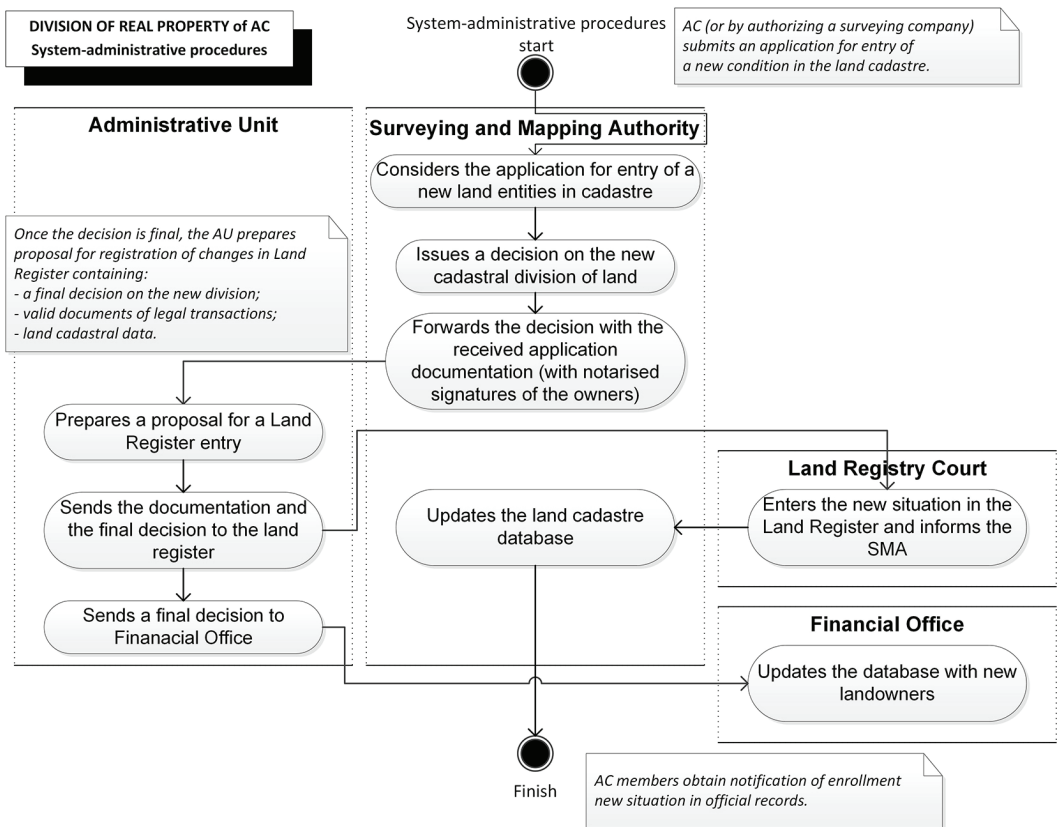


Figure 4: Involvement of the land administration system in the real estate division of AS (UML-activity diagram).

With the UML activity diagram of subdivision of real estate of AC from the point of view of the land administration system (Figure 4), we conclude the presentation of the results of the system analysis performed with models of activities in UML.

When a combined interactive approach of division in a geoinformation environment is practically implemented, an attempt is made to optimise the course of boundaries between plots so that the boundaries



are straight lines or fractures with as few breakpoints as possible. Long, straight boundaries ensure the cost-effectiveness of marking new boundaries in the field by reducing the number of boundary markers. The amount of preparatory work for marking the boundaries in the forest is thus reduced.

Modelling the locations of future new plots involves process coordination, mediation, and negotiation that takes place under the leadership of the surveyor. The process is influenced by external factors, such as terrain diversity and land-use restrictions. Non-permanent residency in the neighbourhood of some members might also be a problem. Participants can contribute constructively in the distribution process, especially in meetings organised to present information on modelling a new division of joint property, with the coordinator carefully monitoring the course of events and trying to prevent conflicts.

## 5 DISCUSSION AND CONCLUSION

In this paper, we have discussed in detail the land management operation, i.e., the mass cadastral procedure that rearranges the common lands of the AC by dividing the joint property or co-ownership among individual members. The common land of an AC is usually an area of lower quality compared to the surrounding land, located near village settlements, which is shared by the members of the AC; as a rule, these are common pastures or forests. Within the framework of the applicable legislation, an AC represents an association of individuals connected by the same land or real estate rights attached to it. Agricultural communities have existed for several centuries. More than 500 ACs have been preserved in Slovenia to this day, despite land reforms in previous centuries. Communities differ from each other in the type of property (joint ownership, co-ownership), the number of members, the size of the property and the legislation under which they are established and managed. In the field of AC, two laws apply: the Act on the Re-establishment of Agricultural Communities (ZPVAS, 1994) and the Agricultural Communities Act (ZAgrS, 2015). The two laws are the basis for determining the level of consent regarding the disposable shares of members required for decision-making in transactions that go beyond the regularly managed assets of the agricultural community, including the separation of immovable property of the agricultural community.

The main reason for the division of the land of AC is not only the lack of interest in participating in the AC but the legal possibility for each member to acquire land in a size proportional to his share. Thus, each individual has the possibility of independent land management, assuming better land use, and above all, a one-time capitalisation of property through the individual sale of the property after the division of common property. Sales of separated land units reach a much higher price than selling shares do.

Of course, it should be noted that the operation of unbundling the common property of the AC introduces essential changes in the management of formerly common lands. Such a solution is not always appropriate for common pastures and forests if we maintain traditional land management and cost-effective land management as offered by forms of joint ownership of property.

In Scandinavia, as we presented at the beginning of this paper, small forest plots have further proved to be a massive problem from the point of view of economics and technical implementation of forest management; therefore, additional instruments are chosen to establish larger forest owner communities for more sustainable management.

If members of the AC show interest in the division of property, extensive preparatory work begins, which relates primarily to the preparation or acquisition of the necessary documentation for the issuance of a decision on the introduction and acquisition of funds. Members of the AC who are interested in the division are attempting to secure a fair share, as they want to become independent owners of the land that they can freely dispose of and not continue to depend on the community. The members have various ideas about improving the efficiency of property exploitation, with the concept of independent ownership and thus independent management of the property with the possibility of selling it at market prices prevailing in Slovenia today, which is the primary motive for unbundling.

The process of the land division was described in this article as a land management operation. We have analysed the process from the perspective of surveyor and land administration system. The performed system analysis was presented with UML activity diagrams and used to illustrate the causal and temporal sequence of individual steps of the operation, as well as the role of individual stakeholders in such a process. In the process, the surveying company first forms two groups of land: dividing the land into those that remain part of the AC and the rest that are subject to division. Then the members of the AC and forest planners from ZGS determine the areas of the forest skid trails.

The contractor with all stakeholders is diligent, looking for a solution for the fair distribution of the land of the agricultural community. When all members of the community agree with the distribution statement of the new land, the surveyor transfers the geometric data of the new state of the land into reality. The procedure is completed when the provider of geodetic services forwards all documentation of the performed procedures to the institutions of the land administration system in order to make appropriate decisions and update the databases within their competence.

The duration of the subdivision process is significantly influenced by quantity, areas, and a number of its stakeholders. In the case study of the Agricultural community of Zgornja Sorica, we observed the phenomenon of diminishing or ceasing of the importance of group action and the transition to individualisation as a result of economic transition, increased mobility of the population, changes in mentality, especially self-sufficiency and changed social values, once held by agricultural and grazing communities.

The importance of the role of a certified surveying engineer in the operation of a cadastral reorganisation of the AC should be emphasised. The surveying company selected by the AC as the contractor for the distribution of a real estate is involved in all phases of the procedure, specifically checking the interest of members, detailed presentation of the procedure to members, various surveying works, preparation of necessary documentation, and other tasks. Additionally, the surveyor cooperates with everyone who deals with or manages the space in the area in question. Authorised geodetic engineers are the key organisers of project activities, solution designers, and a connecting, coordinating link between all stakeholders involved. The main stakeholders in the unbundling of AC land property are community members, ZGS experts, the district forester and three institutions of the land administration system (Surveying and Mapping Authority, Land Registry – Supreme Court, the Financial Administration, and the State Administrative Unit of the Republic of Slovenia).

A significant challenge for surveying companies is also unadapted software for such a complex process of cadastral land redevelopment. At present, no computer program can automatically or semi-automatically

divide the land of an agricultural community, taking into account many different factors, such as the distance of the land units in question from public roads and the skid trails or the distance from land already individually owned by members of the agricultural community, distance from members' economic facilities, forest quality (a type of forest), land use (forest, agricultural, building) and, ultimately, the individual wishes of members. Systemic solutions for balanced land distribution are, therefore, very complicated, which require additional analyses that will allow the upgrade of existing simple decision support systems.

Agricultural communities are probably the most sustainable way of organising the exploitation and management of forests, pastures and other areas in territories with limited production factors, where management is not the most economically profitable. Sociological, legal, and economic-political issues on the causes of the disintegration of AC in Slovenia are not the subject of this article.

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# RAZDELITEV NEPREMIČNIN AGRARNIH SKUPNOSTI: MNOŽIČNA KATASTRSKA PREUREDITEV V UPRAVLJANJU ZEMLJIŠČ V SLOVENIJI

OSNOVNE INFORMACIJE O ČLANKU:  
GLEJ STRAN 508

## 1 UVOD

Katastrske preureditve zemljišč so poseben koncept in uporabno orodje v sistemu zemljiške administracije. Pri tem sistem zemljiške administracije obravnavamo kot obsežen sistem za najpodrobnejše pravno-administrativno strukturiranje prostora ter upravljanje mej pravic, omejitev in odgovornosti na zemljiščih (Zupan et al., 2014). Razdružitvev zemljišč agrarne skupnosti (AS) uvrščamo med množične katastrske postopke upravljanja zemljišč, s katerimi preurejamo večja območja zemljišč. V obravnavani zemljiški operaciji gre za delitev premoženja agrarne skupnosti ob predpostavki o oteženi skupnostni izrabi gozdnih in kmetijskih zemljišč ter o večji učinkovitosti individualnega gospodarjenja z zemljišči, pri čemer lahko posamezniki svobodno razpolagajo s svojo lastnino. Agrarne skupnosti so sicer tradicionalna oblika organiziranja in upravljanja skupne rabe zemljišč v kmetijstvu v hribovitem svetu, kjer ni obsežnih kmetijskih površin, v Sloveniji so še posebej povezane z živinorejo ter gozdarstvom na širšem območju Alp, pa tudi širše (glej tudi Cerar, Premrl in Hafner, 2016). V ozkih alpskih dolinah in na gorskih pobočjih so bile že v preteklosti površine orne zemlje omejenega obsega in pridelek izjemno skromen, tako sta se kot posebni obliki gospodarjenja razvila gorska pašna živinoreja in izkoriščanje gozda.

Zgodovinsko gledano je katastrsko preurejanje zemljišč v smislu operacije združevanja zemljišč v večje enote in razdeljevanja zemljišč v manjše enote stalen proces, ki se s spremembami ekonomskih in političnih sistemov prilagaja vsakokratnim prevladujočim interesom. Katastrske postopke kot del upravljanja zemljišč lahko glede na obseg območja obravnave in število obravnavanih entitet delimo na posamične ali množične, vsebinsko pa na katastrske ureditve in preureditve (Preglednica 1: Katastrski postopki glede na vsebino in obseg izvedbe (prirejeno po Čampa, 2018)). Razdružitvev zemljišč agrarnih skupnosti uvrščamo med množične postopke katastrskega preurejanja, saj zemljiška operacija poleg večjega obsega območja in večjega števila solastnikov ter hkratne ureditve množice podatkov (parcel) zagotavlja tudi homogeno točnost položajnih podatkov (koordinat) novih in obstoječih mejnikov na lomih mej zemljiških parcel, določenih z geodetsko izmero na širšem območju obravnave (Čampa, 2018).

Preglednica 1: Katastrski postopki glede na vsebino in obseg izvedbe (prirejeno po Čampa, 2018)

Katastrski postopki	Katastrsko urejanje	Katastrsko preurejanje
<b>Množični postopek</b>	množično urejanje mej (nova izmera)	nastavitev katastra, komasacija, <b>razdružitvev zemljišč AS</b>
<b>Posamični postopek</b>	ureditev posameznih mej (mejna obravnava)	izravnava meje, parcelacija

Namen raziskave je procesno in vsebinsko analizirati postopek razdruževanja lastnine agrarnih skupnosti v Sloveniji. Postopek operacije razdeljevanja zemljišč agrarnih skupnosti je obravnavan kot množični katastrski postopek preurejanja zemljišč, in sicer od ugotavljanja obstoječega katastrskega stanja do nove parcelne strukture zemljišč. Ob tem je proučena katastrska in organizatorska vloga pooblaščenega inženirja geodetske stroke in geodetskega podjetja v Sloveniji. Glavni cilj je bil oblikovati konceptualni procesni model, ki je lahko podlaga za optimizacijo razdeljevanja premoženja agrarne skupnosti v Sloveniji, kjer je seveda to smotrno, med člane skupnosti.

## 2 AGRARNA SKUPNOST V MEDNARODNEM OKOLJU IN SLOVENIJI

V povezavi s pristopi upravljanja zemljišč je v različnih evropskih državah in drugih delih sveta v istem časovnem obdobju opaziti raznolike interese med deležniki, ki so lahko nosilci raznovrstnih nepremičninskih pravic, investitorji in upravljavci sistemov zemljiške administracije na različnih ravneh javne uprave. S tematiko združevanja in razdeljevanja nepremičnega premoženja v domeni upravljanja zemljišč se ukvarja relativno malo mednarodnih raziskovalcev, ki pa s svojimi objavami omogočajo vpogled v stalnost sprememb interesov na kmetijskih in gozdnih zemljiščih.

### 2.1 Mednarodni pogled na institut agrarne skupnosti

Avstrijski koncept »skupne podeželske lastnine« (nem. *das gemeinsame ländliche Eigentum*, angl. *common rural property*) se je po več stoletjih, odkar je nastal, transformiral v kategorije rimskega prava kot »agrarna skupnost«. Gre za skupno lastnino skupnosti lokalnih kmetij, pri čemer je lastništvo vezano na kmetijsko gospodarstvo in ne na fizično osebo. V goratih območjih Avstrije se organizacijske oblike skupne lastnine imenujejo »agrarna skupnost« (nem. *die Agrargemeinschaft*) ter obsegajo gorske pašnike in gozdove. V vzhodnih delih Avstrije se take skupnosti imenujejo urbarialne skupnosti (nem. *die Urbargemeinschaft*), kar nakazuje na čas njihovega nastanka, to je na fevdalno obdobje. V Avstriji je 10 % gozdnih površin v skupni lasti skupnosti lokalnih kmetij, to je agrarnih skupnosti (Weiss et al., 2015). Tam velja za vse gorske kmetije, da se pri dedovanju, to je prenosu lastninske pravice kmetije, vključno z gozdom, kmetija ne sme deliti na več dedičev, niti vrednotiti po tržni vrednosti, ampak po proizvodni sposobnosti za dohodek od zemljišč, zato da je izbrani dedič sposoben izplačati druge dedne upravičence. Od petdesetih let prejšnjega stoletja so se v Avstriji začele uveljavljati tudi kooperative lastnikov gozdov oziroma gozdarske zadruge, namenjene skupnemu delu v gozdu, skupnim nakupom gozdarske strojne opreme ter skupnemu trženju lesa (Miribung, 2020). V Zgornji Avstriji je danes v veljavi Zakon o delitvi gozdnih zemljišč (nem. *Gesetz vom über die Teilung von Waldgrundstücken – Waldteilungsgesetz*, 1978), ki opredeljuje, da preostali del deljenega zemljišča ne sme biti manjši od enega hektara in ne ožji od 40 metrov (glej tudi Grüne, Hübner in Siegl, 2016).

Na Južnem Tirolskem v Italiji se je podobno kot drugod po srednji Evropi kolektivno lastništvo zemljišč razmahnilo v 19. stoletju z zemljiško odvezo. Leta 1927 je bil tam sprejet sodobnejši zakon o javnih rabah zemljišč (Nequirito, 2010). V deželi Trentino so kolektivno izkoriščali velika območja gozdov in pašnikov, ki so pripadali skupnosti. Leta 2019 so sprejeli amandmaje k Provincialnemu zakonu o javnih rabah (it. *Legge provinciale sugli usi civici*, 2005), vključno s kolektivnimi pravicami agrarnih skupnosti.

Skandinavske dežele imajo bogato tradicijo upravljanja zemljišč na področju skupnega lastništva ter upravljanja skupnih kmetijskih in gozdnih zemljišč. Sevattal (2006) obravnava skupna zemljišča kot tradicionalna z vidika institucionalne stvarnosti in njenega vpliva na rabo zemljišč na Norveškem. Na Norveškem je namreč skupna raba predvsem pašnikov in gozdov zelo pogosta oblika lastništva, ki se je razvijala in ohranjala več stoletij. Podobno kot na Norveškem so skupna zemljišča poznana na Švedskem. Ekbäck (2009) analizira različne ureditve nepremičninskih pravic na Švedskem. Skupno lastništvo nepremičnin utemeljuje kot upravičeno obliko gospodarjenja zaradi zmanjševanja stroškov upravljanja, ko posamezna raba zemljišč (na primer gozdna raba) pomeni ekonomijo obsega, ki je pogojena s fizičnimi in tehničnimi vidiki obravnavane rabe. Na Finskem so gozdna zemljišča lastniško razdrobljena med dediče velike populacije, rojene po drugi svetovni vojni, in jim preti še nadaljnja fragmentacija pod dvajset hektarov na kmetijsko gospodarstvo (Ripatti, 1996; Kauppi, 2016). Povprečna velikost gozdnih nepremičnin kmetijskega gospodarstva znaša le trideset hektarov. Majhna povprečna velikost neindustrijskih gozdov v zasebni lasti je z logistično regresijo dokazana kot spremenljivka z najpomembnejšim negativnim vplivom na ekonomiko gozdarstva. Na Finskem obstaja 334 agrarnih skupnosti in njihovo upravljanje opredeljuje Zakon o skupnem lastništvu gozdov (angl. *Act on Jointly Owned Forests*, 2003). Zakon opredeljuje postopek ustanovitve skupne lastnine gozdnih zemljišč, ki se lahko izvede v procesu komasacije ali v posebnem katastrskem postopku, oblikovanem za ta namen. Katastrski postopek ustanavljanja skupnega lastništva gozdov kakor tudi njihovega razdeljevanja opredeljuje Zakon o vzpostavljanju nepremičnin (angl. *Real Estate Formation Act*, 1995). V državi zaznavajo pozitivne učinke katastrskih operacij združevanja zemljišč v skupno lastništvo gozdov v okviru skupnosti (Kolis, 2016), ki je veliko učinkovitejša od instrumenta komasacije gozdnih zemljišč. Skupno lastništvo gozdov zagotavlja tudi boljše učinke z vidika hektarskih donosov in upravljaljskih stroškov kot individualno lastništvo.

Zapletenost individualnega in skupnega lastništva ter upravljanja gozdnih zemljišč na drugih celinah obravnavajo še Joralemon (1983), Behera (2006), Sarker (2009), Granier (2010), FAO (2012), Bourgeois et al. (2017) ter drugi. O izzivih upravljanja skupnih zemljišč in ohranjanja tradicionalnih pravic tako v razvitih državah kot v državah tretjega sveta razpravljajo tudi avtorji obsežne monografije (Haller et al., 2019), vključno z že omejenimi skandinavskimi državami in državami na območju Alp. Izredno pomembno teoretično raziskovalno delo na področju upravljanja skupnih zemljišč oziroma skupnega premoženja pa je zagotovo na svetovni ravni opravila leta 2009 nagrajena Nobelova nagrajenka Elinor Ostrom, ki je »upravljanje skupnih zemljišč« med drugim predstavila v znanstveni monografiji (Ostrom, 1990).

## 2.2 Skupna zemljišča in agrarne skupnosti v Sloveniji

Skupna območja oziroma tako imenovan nerazdeljeni, skupni »svet«, ki pripada naseljem, so zemljišča v skupni lasti soseške ali solastnini sovaščanov, ki jo opredeljuje predvsem skupna uporaba tega skupnega sveta. V preteklosti je bil poudarjen pomen skupnosti, ki je prinašala **ekonomsko soodvisnost družin in vasi, sodelovanje pri delovnih obremenitvah in tudi druženje članov na skupnem prostoru**. Hafner (2019) navaja dodatne izraze za skupna, nerazdeljena zemljišča, kot so *gmajna, podobčina, srenja, soseška, korporacija, interesna skupnost, urbarialna skupnost, zemljiška zajednica, jus, konzorcij*. Iz njih se je razvilo danes veljavno poimenovanje agrarna skupnost, ki ima tudi družbeno vlogo, saj gre za skupino sobivajočih krajanov, ki so skupaj, v soodvisnosti uporabljali skupne površine, kot so pašniki za pašo,

gozd za nabiranje dračja in sečno lesa, vodni viri za skupna napajališča, ter kot skupnost ustanovljali skupne služnostne pravice (Križ, 2019).

Uršič Zupan (2019) poudarja, da so agrarne skupnosti ena najbolj trdnih in trajnih identitet nekega prostora, pri čemer je skupno uživanje nerazdeljenih zemljišč vezalo vas v gospodarsko celoto. Na rabo in gospodarjenje skupnega sveta so vplivali tudi krajevni običaji (Vilfan, 1996). Petek in Urbanc (2007) poudarjata, da naj bi se v sodobnem času gospodarski pomen rabe skupnih zemljišč izgubljal veljavo zaradi ekološkega, okoljevarstvenega, kulturnega in drugih vidikov. V ospredje naj bi prihajal pomen ohranjanja in vzdrževanja ekološkega ravnovesja, biotske raznovrstnosti, odprte kmetijske pokrajine ter kulturne krajine in podeželja nasploh. Kot pa s kaže, tem načelom nasprotuje povečano povpraševanje po zaraščenih površinah za gradnjo. Razlog za obravnavani postopek delitve zemljišč agrarne skupnosti so tako marsikdaj ravno ekonomski interesi tržne odprodaje zemljišč, še posebej zaraščenih zemljišč v bližini vitalnih naselij.

Nekatere agrarne skupnosti v svoj naziv vključujejo besedo »pašna«, na primer »Agrarna pašna skupnost Kriška planina« in »Pašna skupnost Velika planina«, kar nakazuje, da imajo močan interes za pašo. Obstajajo tudi izključno pašne skupnosti, ki so formalno interesna združenja za namen skupne paše, medtem ko je agrarna skupnost lastniška. Marsikdaj se obe obliki skupnosti na istem ozemlju dopolnjujeta. Agrarne skupnosti v Sloveniji, ki imajo v lasti pretežno gozdna zemljišča ali zemljišča v zaraščanju in imajo tudi pašni interes, se srečujejo s težavo, da v gozdu paša ni dovoljena, kar je bilo v preteklosti dovoljeno in opredeljeno s tako imenovanimi služnostnimi pravicami (Kumm in Hesse, 2020).

Uršič Zupan (2019) poudarja, da bi člani v nekaterih agrarnih skupnostih skupno premoženje radi razdelili in agrarno skupnost tudi formalno ukinili. Ni pa nujno, da se med člane razdeli vse premoženje agrarne skupnosti. Ker gre za pretežno gozdna zemljišča, si agrarne skupnosti prizadevajo v skupni lasti ohraniti območja za odlaganje lesne mase, vodnih zajetij, kamnolomov in podobno. Tudi pri operaciji delitve skupnega premoženja agrarne skupnosti se pojavljajo težave, povezane s pripravljenostjo članov na sodelovanje. Nekaterih članov delovanje v skupnosti ne zanima, kar se kaže v slabši udeležbi na občnih zbiorih, kamor prihaja približno polovica vseh članov. Neredna udeležba na občnih zbiorih skupnosti pa se kaže kot težava, ko je treba za sprejemanje odločitev zagotoviti zakonsko predpisano sklepčnost v večjem ali manjšem deležu, v odvisnosti od vsebine odločanja. Eden od razlogov za slabo udeležbo je lahko tudi, da člani marsikdaj niso več del skupin sobivajočih krajanov iz iste ali sosednje vasi, ampak so nekateri odtujeni od skupnosti ali celo tujci, ki skupnosti niso poznani, na primer dediči iz oddaljenih krajev.

Pomisleki o ekonomičnosti izkoriščanja gozdnih zemljišč in pašnikov sicer lahko izvirajo iz soodvisnosti članov od skupnosti, ki ga pogojujeta solastništvo in skupno upravljanje premoženja skupnosti, vendar so neupravičeni, saj **uspešni primeri skupnega lastništva in gospodarjenja v drugih evropskih državah dokazujejo nasprotno.**

Pri tem se kot težava pogosto omenja pomanjkanje finančnih sredstev skupnosti za razdružitev premoženja, saj mora agrarna skupnost sama zagotoviti sredstva za plačilo geodetskih storitev geodetskemu podjetju, kot tudi za plačilo strokovnih del, ki jih pri razdruževanju gozdov opravi Zavod za gozdove Slovenije (ZGS). Strokovnjaki ZGS namreč na podlagi tehnoloških gozdnogospodarskih načrtov usmerjajo pripravo in gradnjo gozdnih poti in vlak, prometnic v gozdu ali zunaj gozda, potreba po katerih nastane zaradi nove strukture parcel po razdružitvi in ki so namenjene predvsem gospodarjenju z gozdom. K



temu spada tudi vzdrževanje gozdnih prometnic (Prah, 2012). Postopek razdružitve zemljišč agrarne skupnosti je za geodete zapleten izziv, saj je treba poiskati posebno rešitev za vsako agrarno skupnost, ki se odloči za razdeljevanje posesti, pri čemer se skuša zagotoviti čim bolj optimalna in pravična razdelitev zemljišč med člane glede na njihove deleže.

Razdružitev skupnih zemljišč je bila prvič zakonsko opredeljena v avstrijskem državnem zakoniku leta 1883 (Ribnikar, 1991). Zakon je postal veljaven šele s potrditvijo v vsaki deželi posebej, na Kranjskem se je imenoval Zakon o razdelbi skupnih zemljišč in uredbi dotičnih skupnih pravic do njih uživanja in oskrbovanja. S potrditvijo deželnih zakonikov so se ustanovile tudi komisije za agrarne operacije, in sicer za Koroško leta 1885, za Kranjsko leta 1887 in za Štajersko leta 1909. Istega leta je bil sprejet Zakon o varstvu planin in pospeševanju planinskega gospodarstva, kar kaže tesno povezanost obeh dejavnosti. Vse premoženje agrarnih skupnosti, ne glede na zemljiškoknjižni vpis, je bilo poddržavljeno na podlagi Zakona o agrarnih skupnostih iz leta 1947, s katerim je bila ukinjena tudi tedanja že enotna komisija za agrarne operacije s sedežem v Ljubljani.

V nadaljevanju podajamo nekaj statističnih podatkov o agrarnih skupnostih v Sloveniji. Število agrarnih skupnosti je na ozemlju današnje Slovenije bistveno manjše, kot je bilo pred podržavljanjem leta 1947. Takrat naj bi jih po dostopnih virih obstajalo okrog tisoč. Agrarna skupnost je bila lahko prvič po nacionalizaciji spet pravno opredeljena z vpisom v register agrarnih skupnosti, in sicer na podlagi Zakona o ponovni vzpostavitvi agrarnih skupnosti (ZPVAS, 1994) v dveh oblikah lastništva: kot posebna *skupna* lastnina *brez navedbe lastniških deležev* članov ali kot posebna *solastnina z navedbo lastniških deležev* članov. Leta 1994 je bilo v Sloveniji registriranih 638 agrarnih skupnosti s približno 40.000 člani, ki gospodarijo s približno štirimi odstotki zemljišč celotne površine države. Od teh je 547 skupnosti v svoje lastništvo povrnilo vsaj del nacionaliziranega premoženja (Premrl, 2013).

Leta 2015 je bil zaradi neskladij, ki so jih odkrili v prejšnjem zakonu, sprejet Zakon o agrarnih skupnostih (ZAgrS, 2015). Tudi ta zakon, podobno kot pred tem ZPVAS (1994), predpisuje vzpostavitev Registra agrarnih skupnosti (RAS), vendar se je vanj do leta 2019 vpisalo le 24 skupnosti. Z zakonom so želeli ponovno uveljaviti pomembnost skupnosti in sobivanja ter skupnega upravljanja naravnih virov. Po tem zakonu agrarna skupnost ni pravna oseba, ima pa procesno sposobnost. V nadaljevanju navajamo še druge statistične podatke in značilnosti agrarnih skupnosti v Sloveniji – podatki se nanašajo na stanje v letu 2015 (Križ, 2019):

- Število članov posamezne agrarne skupnosti je od 5 do 513. V povprečju ima agrarna skupnost 34 članov.
- Večina agrarnih skupnosti ima v lasti od 15 do 300 hektarov zemljišč. Nekatere so velike tudi nekaj tisoč hektarov.
- V 61,8 % agrarnih skupnosti je bilo premoženje z denacionalizacijo vrnjeno v obliki *solastnine*, v 24,5 % v obliki *skupne lastnine*, preostalo pa v obliki *solastnine* in *skupne lastnine*. Občina je kot *solastnik* oziroma *skupni lastnik* prisotna v več kot 40 % vseh agrarnih skupnosti.
- Okrog deset agrarnih skupnosti je še vedno v postopkih urejanja/pridobivanja premoženja.

Razdružitev premoženja agrarne skupnosti s katastrskega vidika v Sloveniji še ni bila podrobno preučena, zato bomo v tem prispevku prvič predstavili upravne postopke in geodetsko prakso, ki se je oblikovala na tem poslovnem področju geodetske stroke. Sledi opis metod in analiza postopka razdružitve nepre-

mičnega premoženja agrarne skupnosti, v kateri bomo predstavili vse pomembnejše korake upravljanja zemljišč, ki jih je treba izvesti za njeno operativno izvedbo.

### 3 METODOLOŠKI OKVIR

V tem razdelku obravnavamo metode in pristope za analize razdružitve zemljišč agrarnih skupnosti. V predhodni študiji tematike so bile uporabljene raziskovalne metode, kot so sodelovanje pri katastrsko-geodetskih terenskih delih ureditve meje oboda, zbiranje informacij na občnem zboru študijskega primera agrarne skupnosti, intervjuji s člani operativnega odbora, strokovnjaki upravne in pravne stroke, sistemska analiza in metoda modeliranja procesov z diagrami aktivnosti v jeziku UML (angl. *unified modelling language*) ter preučevanje zakonodaje. Z metodo intervjuja s pripadniki različnih strok, ki so posredno ali neposredno vpleteni v postopek razdružitve premoženja agrarne skupnosti, smo prišli do začetnih informacij, ki so potrebne za sistemska analizo in modeliranje procesov.

Najprej smo intervjuvali strokovnjaka geodetske stroke, zaposlenega v izvajalskem geodetskem podjetju, ki vodi postopke katastrskih preureditev ter koordinira vse faze, od načrtovanja in izvedbe do projektiranja. Informacije glede finančnih podpor za gradnjo gozdnih prometnic smo pridobili z intervjuji s strokovnjaki z ministrstva, pristojnega za kmetijstvo, natančneje iz sektorja za urejanje kmetijskega prostora in zemljiške operacije pri Ministrstvu za kmetijstvo, gozdarstvo in prehrano Republike Slovenije. Udeležili smo se občnega zbora agrarne skupnosti študijskega primera, kjer smo v vodenem intervjuju postavljali vprašanja članom operativnega odbora in predsedniku agrarne skupnosti. Razkrili so nam dejstva o poteku postopka razdružitve premoženja ter o vlogi in storitvah geodetskega podjetja, kot jih vidijo sami. Za dodatne informacije o agrarnih skupnostih ter njihovem delovanju smo vodeno intervjuvali generalnega sekretarja Združenja predstavnikov agrarnih skupnosti Slovenije (ZPASS). Ustrezne pravne informacije smo pridobili s študijem področne zakonodaje.

Analiza postopka razdružitve zemljišč agrarnih skupnosti se nadaljuje z uveljavljeno metodologijo poenotene jezika za modeliranje UML. Prvo različico standarda UML je leta 1997 izdalo podjetje Object Management Group (OMG). UML pripomore k boljšemu razumevanju sistemov z različnimi diagrami, kar je bilo že uporabljeno za modeliranje postopkov transakcij zemljišč (Lisec, Ferlan in Šumrada, 2007). Vsak diagram zagotavlja raznolike informacije o sistemu, saj vsebuje strukturne in vedenjske vidike. UML se v obliki diagramov uporablja za modeliranje poslovnih procesov, različnih struktur in programskih rešitev (Lisec et al., 2008). Ker je namen vsakega diagrama drugačen, je tudi pogostost uporabe posameznega diagrama in njegovih konstruktorov različna. Postopek razdružitve zemljišč je v članku ponazorjen z diagrami aktivnosti UML, s katerimi je prikazano tudi časovno sosledje posameznih korakov.

Rezultate sistemske analize opredeljujemo kot procesne modele v poenotenem jeziku za modeliranje – UML, pri čemer je najprej obravnavana priprava članov na delitev nepremičnega premoženja ter odločanje skupnosti, v drugem delu rezultati z vidika pooblaščenega inženirja geodetske stroke, izvajalca in koordinatorja aktivnosti upravljanja zemljišč katastrske razdružitve nepremičnin. V tretjem delu je pojasnjena relacija operativnih aktivnosti med geodetskim podjetjem, Zavodom za gozdove Slovenije in agrarno skupnostjo. V zadnjem delu so rezultati sistemske analize postopka z vidika sistema zemljiške administracije, ki vključuje štiri glavne deležnike, in sicer Geodetsko upravo Republike Slovenije (GURS), zemljiškoknjižno sodišče, Finančni urad Republike Slovenije (FURS) in upravno enoto. Kot študijo primera smo obravnavali agrarno skupnost Zgornja Sorica.

## 4 REZULTATI

Rezultat analitičnega raziskovalnega dela je podrobna predstavitev vseh korakov razdelitve skupnega premoženja agrarnih skupnosti. Postopek, ki smo ga modelirali na podlagi preučene zakonodaje, intervjujev in analize študijskega primera, je podrobno predstavljen z diagrami aktivnosti UML.

### 4.1 Priprava članov in odločanje skupnosti o razdružitvi nepremičnin agrarne skupnosti

Preden uvedemo postopek razdružitve premoženja agrarne skupnosti, se med njenimi člani preveri interes glede delitve premoženja med upravičene deležnike. Uvedbo postopka razdružitve lahko predlagajo člani agrarne skupnosti, vendar morajo pri tem upoštevati področno zakonodajo. Deleži glasov upravičencev, ki so potrebni za potrditev sklepa o delitvi agrarne skupnosti, se glede na oba zakona, ki sta še v veljavi na področju agrarne skupnosti (ZAgrS, 2015, in ZPVAS, 1994), razlikujejo. Zaradi različnih opredelitev deležev lahko težave s sklepčnostjo nastopijo že v začetku postopka – a tako zgolj v prehodnem obdobju pred uveljavitvijo nove zakonodaje. Upravljanje premoženja agrarne skupnosti delimo na posle rednega upravljanja in posle, ki presegajo okvire rednega upravljanja. Med slednje štejemo vsako razpolaganje z nepremičnino kot celoto, kar vključuje tudi delitev premoženja. Pomembne informacije o upravljanju premoženja agrarne skupnosti, ki presegajo redno upravljanje z nepremičninami (na primer o delitvi premoženja), lahko pridobimo v Priročniku za uporabo Zakona o agrarnih skupnostih (Cerar, Premrl in Hafner, 2016), in sicer:

- za agrarno skupnost, ki je vzpostavljena po ZPVAS (1994), veljajo pravila Stvarnopravnega zakonika (SPZ, 2002), kar pomeni, da je treba pridobiti soglasje vseh solastnikov (100 %);
- v agrarni skupnosti, ki je vzpostavljena po ZAgrS (2015), člani sprejemajo odločitve na občnem zboru agrarne skupnosti, pri čemer se upošteva nižja stopnja soglasja glede na idealni delež; odločitev o delitvi premoženja se sprejme s tričetrtinsko večino vseh glasov (75 %; peti odstavek 21. člena ZAgrS).

Agrarna skupnost študijskega primera, ki ga obravnavamo v prispevku, je bila vzpostavljena po ZPVAS iz leta 1994, torej je potrebno soglasje vseh solastnikov. Ko je soglasni delež članov glede na predpisane deleže soglasja ustrezen, agrarna skupnost sprejme sklep o delitvi premoženja.

### 4.2 Splošni opis katastrsko-geodetskih in gozdarskih del v postopku delitve premoženja agrarne skupnosti

Sklep agrarne skupnosti o delitvi premoženja je podlaga za uvedbo postopka delitve agrarne skupnosti v sistemu zemljiškega katastra, kar pomeni, da GURS izda *odločbo za začetek postopka delitve* ter da se v zemljiško knjigo vnese zaznamba o tem. V informacijskem sistemu zemljiškega katastra se označijo obravnavane parcele agrarne skupnosti, na katerih se bo izvedla delitev. Z označitvijo parcel v zemljiškem katastru geodetska uprava izda odločbo za začetek postopka razdružitve zemljišč agrarne skupnosti. Operativna geodetska dela v zvezi z razdružitvijo izvaja geodetsko podjetje, ki ima dovoljenje za opravljanje geodetskih storitev. Zemljiškokatastrski del elaborata mora potrditi pooblaščen inženir s področja geodezije, potrjeni elaborat je podlaga za prenos novega parcelnega stanja katastra na zemljišča v stvarnosti. Novi lomi mej zemljišč se prenesejo s parcelacijskega katastrskega načrta v stvarnost na podlagi geometričnih podatkov, ki so določeni v zemljiškokatastrskem delu *elaborata nove razdelitve zemljišč*. Na strokovnem področju gospodarjenja z gozdom operativna dela za razdelitev, kot je na primer vrednotenje gozda, izvede

Zavod za gozdove Slovenije ter revirni gozdar, ki deluje na obravnavanem območju agrarne skupnosti. Glavni informacijski podlagi za vrednotenje gozda sta gozdnogospodarski in gozdnogojitveni načrt. Pri tem so pomembne tudi informacije o možnostih za financiranje operacije razdelitve s strani ministrstva za kmetijstvo, gozdarstvo in prehrano, s čimer se razbremenijo prihodnji lastniki na novo opredeljenih zemljišč. V nadaljevanju podrobneje predstavljamo operativni postopek združitve premoženja agrarne skupnosti, in sicer v treh vsebinsko zaokroženih delih.

#### 4.2.1 Pripravljalna dela za uvedbo postopka delitve premoženja agrarne skupnosti

Ko v agrarni skupnosti pomemben delež članov izkaže interes za delitev skupnega premoženja, se začnejo obsežna pripravljala dela, ki se nanašajo predvsem na izdelavo oziroma pridobitev ustrezne dokumentacije za izdajo *odločbe za začetek uvedbe množične razdružitve* pri geodetski upravi in internega načrta agrarne skupnosti za pridobitev sredstev za financiranje operacije. Na občnem zboru agrarne skupnosti izvajalec geodetskih storitev predstavi množični postopek delitve nepremičnega premoženja.

Izvajalec pridobi geometrične in pisne podatke iz sistema zemljiškega katastra pri geodetski upravi, podatke o solastnikih agrarne skupnosti, o njihovih nepremičninskih pravicah v agrarni skupnosti, vključno z bremenami pri zemljiški knjigi ter podatki prostorskih aktov, pri občinski upravi.

Agrarna skupnost vzpostavi ožji operativni odbor, ki med postopkom operativno sodeluje z izvajalcem katastrskega upravljanja zemljišč. Člani se dogovorijo o načinu delitve zemljišč in operativni odbor z izvajalcem oblikuje smernice za izdelavo predloga množične parcelacije za razdelitev zemljišč. Pri predlogu se upoštevajo lastniški deleži, boniteta zemljišč, rastiščni koeficient in dostopnost zemljišč – potek gozdnih poti in vlak.

Nato izvajalec geodetskih storitev pripravi obširno analizo stanja, s projektantsko zasnovo posebnih delov postopka ter novega stanja, kar predstavi v *elaboratu idejne zasnove*. Ta je sestavljen iz besedilnega in grafičnega dela. Besedilni del vsebuje pogoje za obravnavo zemljišč, ki se nanašajo na naravne posebnosti in tradicionalne rabe obravnavanih zemljišč, kriterije za urejanje prostora po predpisih lokalne skupnosti, predviden načrt gospodarjenja in rabe (za kmetijska in gozdna zemljišča), predvidene ukrepe za tehnično ureditev zemljišč ter ukrepe za varovanje naravne in kulturne dediščine. Grafični del idejne zasnove se izdela na podlagi geometričnih podatkov sistema zemljiškega katastra in vsebuje stanje pred izvedbo postopka ter predvideno novo stanje. Predstavijo se ocenjeni stroški za predvideni obseg dela, čas, ki bi bil potreben za izvedbo posameznih del, ter načrt financiranja operacije (viri, dinamika izplačil).

Območje delitve premoženja agrarne skupnosti sestavlja izbor zemljišč, ki so v solastnini – obravnavane parcele; ni nujno, da so predmet postopka delitve vse parcele agrarne skupnosti. Običajno meje oboda obravnavanega območja zemljišč niso katastrsko urejene, zato se po uradni uvedbi postopka združitve z odločbo o začetku postopka razdelitve te najprej katastrsko uredijo s postopkom ureditve meje.

Z začetkom postopka urejanja mej oboda izvajalec geodetskih storitev organizira tudi postopek prodaj oziroma nakupov deležev solastnine oziroma skupne lastnine obravnavanih parcel med solastniki agrarne skupnosti ter odkup katastrsko neurejenih (neodmerjenih) občinskih cest. Po dosedanjih izkušnjah obstaja med člani agrarne skupnosti zelo veliko zanimanje za prodajo oziroma nakup deležev lastnine drugih članov agrarne skupnosti. Zaradi transakcij teoretičnih deležev skupne lastnine oziroma solastnine se

zmanjša število solastnikov, torej je treba dejansko vzpostaviti manj novih parcel, kakor bi jih morali, če ne bi bilo medsebojnih kupoprodaj premoženja. S tem se zmanjšajo tudi geodetski stroški delitve zemljišč, kolikor manjše je namreč število novih parcel, toliko lažja je izvedba katastrskih postopkov. Torej se v tej fazi projekta izvede prva optimizacija postopka delitve. Če kateri od članov agrarne skupnosti med obravnavo umre, se pred izvedbo postopka razdelitve poiščejo nujni dediči. Za to poskrbi upravna enota.

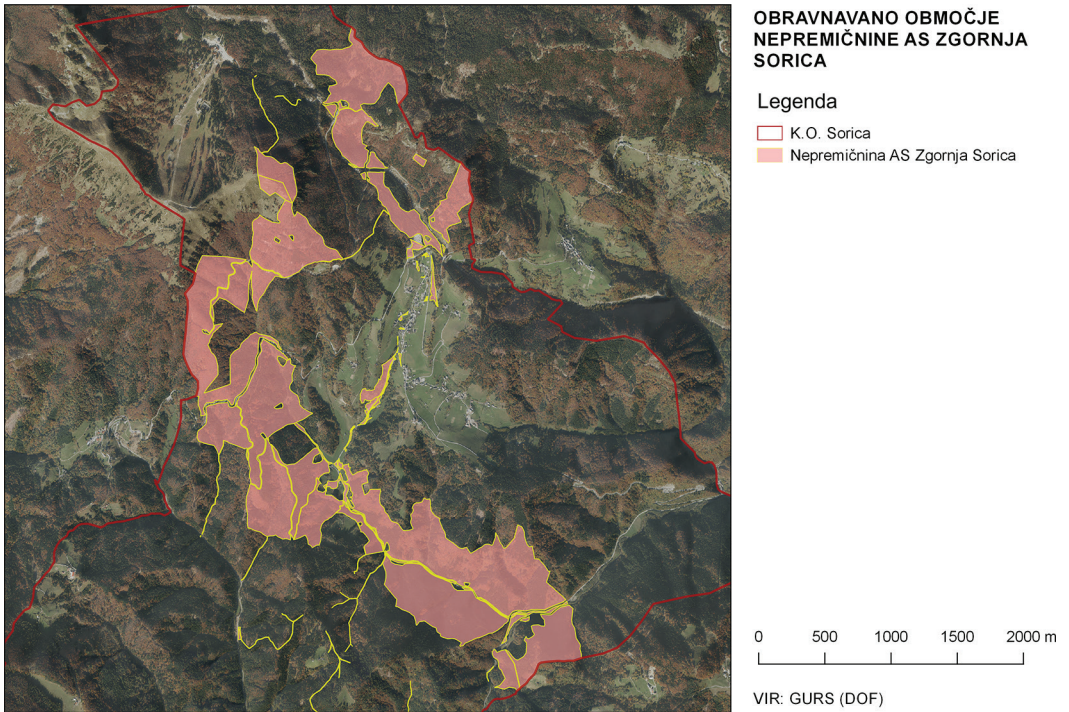
Izvajalec katastrsko uredi meje oboda zemljišč agrarne skupnosti po Zakonu o evidentiranju nepremičnin (ZEN, 2006), in sicer v postopku geodetske storitve ureditve meja ter ob navzočnosti članov operativnega odbora agrarne skupnosti, in izmeri gradbeno-inženirske objekte na obravnavanem območju, vključno z dolžinskimi objekti, kot so daljnovodi, poti in vlake, pa tudi vodotoki. Z navedenim postopkom se ugotovi dejanska velikost obravnavanega območja agrarne skupnosti. Nato se geodetsko izmerijo še zemljišča, ki niso v rabi z vidika kmetijstva, gozdarstva in infrastrukture (nerodovitno, skalovje), in zemljišča, ki bodo še naprej v skupni lastnini (na primer začasna odlagališča ter prostor za dolgotrajnejše skladiščenje lesa, poti, napajališča). Iz območja združitve se tako izločijo zemljišča, ki niso primerna za individualno uporabo, ali pa imajo člani še naprej interes za skupno izkoriščanje teh zemljišč. Člani agrarne skupnosti na skupnem in posameznih sestankih s pooblaščenim inženirjem geodetske stroke pregledajo predlog množične parcelacije, temu sledita razprava in dopolnitev predloga. Če je bila agrarna skupnost vzpostavljena po starem zakonu ZPVAS (1994), morajo končni predlog množične parcelacije vsi člani skupnosti potrditi s podpisi in tako nastane *elaborat nove razdelitve zemljišč* (končni idejni predlog parcelacije).

Ko agrarna skupnost potrdi končni predlog razdelitve, se običajno prijavi na razpis za evropska sredstva za sofinanciranje izgradnje gozdnih prometnic, natančneje gozdnih vlak. Agrarna skupnost, ki želi investicijo v ureditev gozdne infrastrukture, se najprej obrne na krajevno pristojno enoto Zavoda za gozdove Slovenije. Tam pridobi vse ustrezne informacije in obrazce, po katerih se pripravi projektna dokumentacija vloge za sofinanciranje. Pripravljena vloga se vloži na Agencijo za kmetijske trge in razvoj podeželja (AKTRP). Če je vloga popolna, ustrezna in je izbrana na podlagi meril za izbor, AKTRP izda *odločbo o odobritvi sredstev* za sofinanciranje ureditve gozdne infrastrukture, ki se financira v okviru Programa razvoja podeželja 2014–2020 (podukrep 8.4).

Geodetsko podjetje o predvideni uvedbi postopka množične parcelacije kot katastrske preureditve obvesti zemljiškoknjižno sodišče in GURS. Geodetska uprava na podlagi sklepa agrarne skupnosti evidentira uvedbo postopka v sistemu zemljiškega katastra in izda *odločbo o uvedbi postopka razdelitve* (Slika 2).

#### 4.2.2 Operativno katastrsko in gozdarsko upravljanje

V operativnem delu katastrskega in gozdarskega upravljanja zemljišč v okviru razdelitve premoženja agrarne skupnosti, tako imenovanem katastrskem in gozdarskem managementu, se katastrsko uredijo parcelne meje obodov obravnavanih območij ter v naravi označijo meje tistih zemljišč, ki bodo še naprej ostala v skupni lasti agrarne skupnosti. Območje skupnih zemljišč agrarne skupnosti, ki so predmet delitve, je lahko geometrično zaokrožena celota ali pa je teh območij več in so topološko ločeni deli, razpršeni po bližnjem geografskem prostoru, kot v obravnavanem študijskem primeru (Slika 1). S tem se ustvari geometrični okvir, v katerem se v nadaljevanju postopka izvaja razdeljevanje glede na izbrane parametre odločanja, med katerimi je najpomembnejša vrednost gozda, saj gre v obravnavanem primeru delitve za gozdna zemljišča.



Slika 1: Topološko ločeni deli obravnavanega območja, razpršeni po bližnjem geografskem prostoru.

Gozdni načrtovalci na Zavodu za gozdove Slovenije ocenijo vrednost gozda na podlagi gozdne mase, vrste podrasti ter vrste dreves, ki rastejo na obravnavanem območju. Ocenjene vrednosti so poleg geometričnega okvira podlaga za uravnoteženo in pravično razdružitev premoženja. Hkrati z začetkom ocenjevanja vrednosti gozda lahko člani agrarne skupnosti, na podlagi izdane odločbe o odobritvi sredstev za izgradnjo gozdnih prometnic, začnejo izvajati ustrezna pripravljala dela za gradnjo gozdnih prometnic, na primer sečnjo označenih dreves na predvidenih trasah gozdnih vlak.

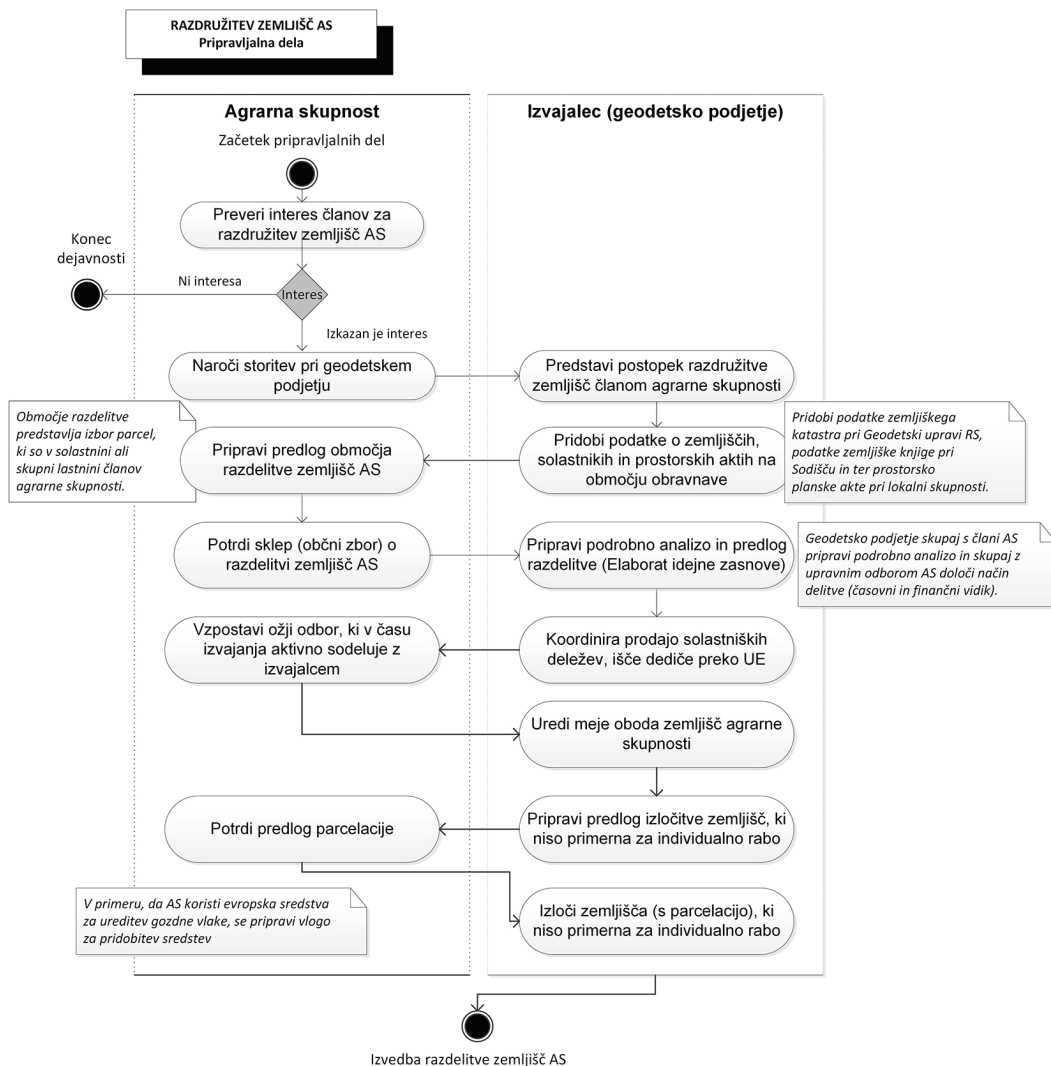
Upravni odbor agrarne skupnosti, revirni gozdar in strokovnjaki Zavoda za gozdove Slovenije so deležniki, ki skupaj načrtujejo potek gozdnih prometnic (cest in vlak). Vzporedno se določijo območja odlagališč lesa. Načrtovalci iz pristojnega zavoda za gozdove pripravijo *gozdnogospodarski načrt*, v katerem določijo prednostna območja za pripravo in gradnjo gozdnih vlak. Vlako natančneje določijo v tehnološkem delu gozdnogojitvenega načrta in izdelajo *elaborat vlak*. Gozdarji na terenu označijo traso vlake in drevje, ki ga je treba posekati. Pri tem izdajo *odločbo za posek* označenih dreves. Ko je vlaka narejena, jo gozdarski načrtovalci pregledajo in prevzamejo v upravljanje (vzdrževanje gozdnih prometnic), nanje se vpiše služnost tistih deležnikov, ki jo bodo uporabljali. Agrarna skupnost iz svojih sredstev plača vse račune za gradnjo gozdne prometnice. Po končani izgradnji gozdnih vlak odda zahtevek za povračilo sredstev na AKTRP (če je bilo odobreno sofinanciranje v okviru Programa razvoja podeželja 2014–2020), pri čemer predloži račune, ki jih je plačala izvajalcu gradnje vlake. Če zahtevek ustreza pogojem zakonskih določil in razpisa AKTRP, se agrarni skupnosti povrnejo sredstva v deležu 50 % upravičenih stroškov investicije.

V obstoječem postopku katastrske razdelitve zemljišč gozdne vlake niso opredeljene kot parcele. Zato tudi sodišče, pristojno za zemljiško knjigo, vpiše služnost gozdne vlake kar na zemljišča, identificirana s parcelami, po katerih presečno potekajo vlake, in sicer hkrati z vpisom lastnikov posameznih zemljišč novih parcel v zemljiškoknjžni informacijski sistem. Za vpis pravice služnosti se v praksi služnostni pogodbi priloži skica poteka vlak s katastrskim stanjem parcel in preglednica koordinat točk na osi vlak, tako da je jasno in nedvoumno dokumentiran geodetsko opredeljen potek vlak. Parcelni način evidentiranja vlak ni smiseln, ker so vlake preveč »živa«, pogosto spreminjajoča se struktura, ki kaj kmalu ne bi več položajno ustrezala prej izmerjenemu koridorju. Opredelitev vlak na parcelni način bi pomenila tudi dodatno razdrobitev parcel. Rezultat tega bi bilo veliko večje število parcel in večina bi bila manjša od petih hektarov, kar bi pomenilo, da takih parcel v prihodnosti ne bi bilo več mogoče deliti zaradi omejitve, predpisane v Zakonu o gozdovih (ZG, 1993).

V skladu s predlogom Zakona o katastru nepremičnin (2019), ki v 19. členu opredeljuje katastrsko določanje območij stvarne služnosti oziroma služnostne pravice, ki se nanaša na del nepremičnine oziroma njene sestavine, ter povezavo med evidentirano geolokacijo in vpisano pravico v zemljiški knjigi, se bo v prihodnje ponudila zakonska možnost, da se katastrsko določijo meje zemljišč vlak in odlagališč lesa ter se jim geometrično določi poligon s parcelno številko ali identifikator za del parcele, ki bi bila lahko geometrična podlaga za vpis služnosti v zemljiško knjigo.

Pri tem bi lahko uporabili sestavine katastrske opredelitve, kot so poligonska geometrija območja služnosti, geolokacija ter površina tako nastale služnostne parcele oziroma dela služne parcele. Vendar uporaba te možnosti ni v skladu s cilji optimizacije operacij upravljanja zemljišč ter izboljšanja ekonomike izkoriščanja obravnavanih zemljišč, saj bi se s tem nesmotrno povečalo število novo nastalih parcel, precej podaljšala skupna dolžina mej za katastrsko urejanje, s čimer bi se tudi močno povečali stroški operacije.

Medtem ko gozdarski strokovnjaki in člani agrarne skupnosti opravljajo naloge gozdarskega upravljanja, geodetski izvajalec išče projektantsko rešitev za uravnoteženo razdelitev zemljišč med obravnavane člane agrarne skupnosti. Ko je operativna rešitev znana, geodet pripravi predlog katastrske delitve zemljišč (načrt množične parcelacije), ga predstavi članom odbora agrarne skupnosti in se z njimi posvetuje. Ko se odbor s predlaganim načrtom za razdelitev zemljišč strinja, se na njegovo uradno razgrnitve z vabilom pozovejo tudi preostali člani agrarne skupnosti. Udeleženci, ki se ne udeležijo razgrnitve, so vabljeni ponovno. Visok delež udeležbe upravičencev na razgrnitvah pripomore k enostavnejši in hitrejši operativni izvedbi postopka razdeljevanja zemljišč. Seveda bi se morali, za doseganje veljavnosti predloga nove razdelitve zemljišč, z njim strinjati vsi člani, kar je po prvi predstavitvi zasnove razdelitve neobičajno. Pričakuje se, da člani agrarne skupnosti na predlog podajo pripombe v pisni ali ustni obliki. Največ pripomb se običajno navaja ustno in niso predmet zapisov oziroma morebitnih zapisnikov, ki jih v postopku razgrnitve sicer vodi izvajalec geodetskih storitev. Udeleženci razgrnitve *želijo predvsem povedati svoje mnenje* in uresničiti svoje želje, ne želijo pa se formalno izpostavljati s pisnimi pripombami. Razgrnitve in podajanje pripomb se lahko ponovita večkrat. Izvajalec po zbranih pripombah razgrne popravljen predlog, čemur pogosto sledi ponovna ustna obravnavna. Ko se z novo rešitvijo strinjajo vsi solastniki, izvajalec popravi tudi *že* predhodno pripravljeno idejno zasnovo, tako imenovan *elaborat nove razdelitve zemljišč*. To je dokument, naveden v opisu faze priprave, ki je bil podlaga za pridobitev sredstev za gradnjo vlak in vpis plomb na parcele v sistemu zemljiškega katastra ter za obveščanje zemljiškoknjžnega sodišča o uvedbi postopka delitve. Izvajalec seznanj agrarno skupnost z zadnjo različico zasnove katastrske razdelitve zemljišč v formalni obliki *razdelitvenega izkaza*.



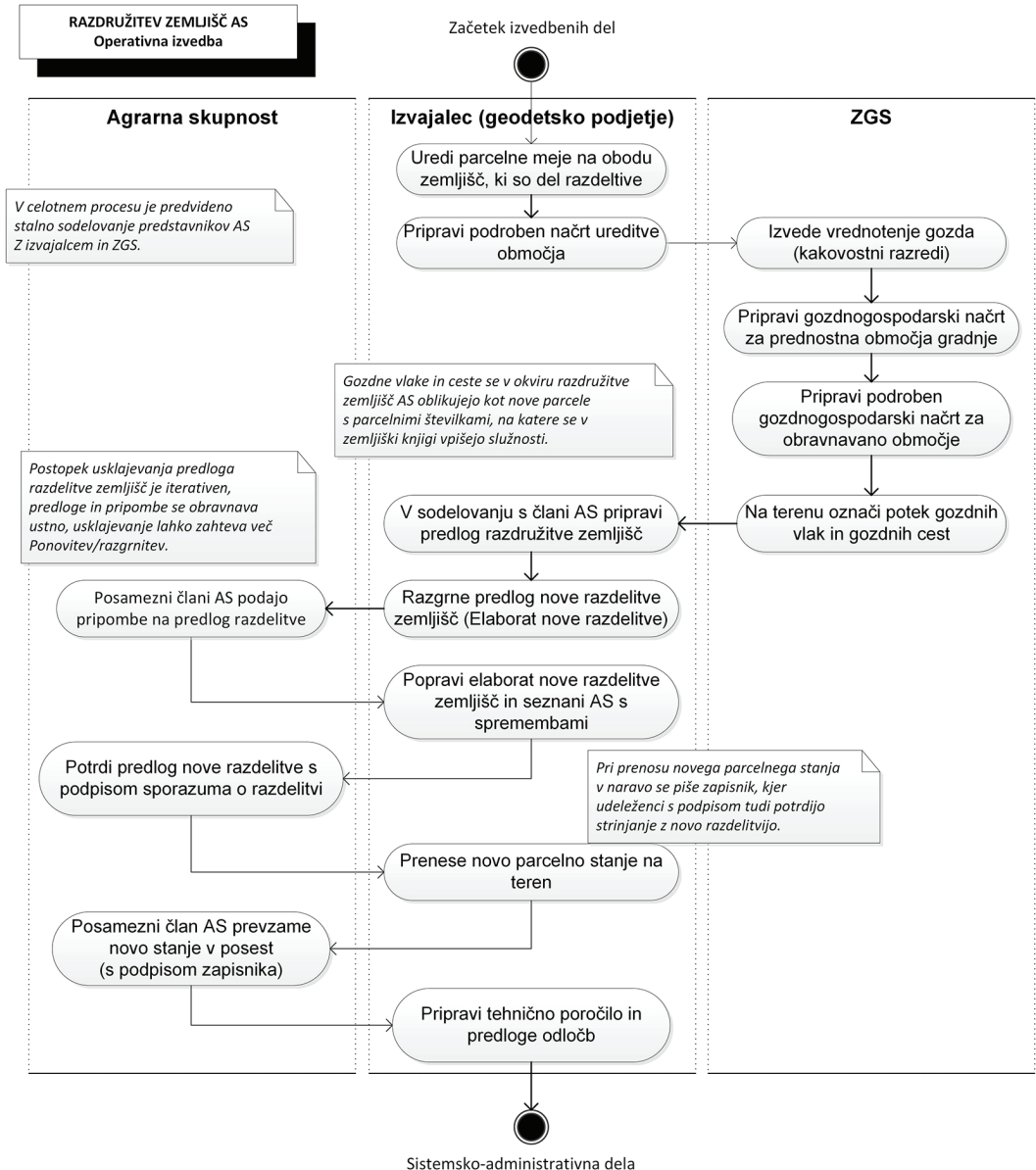
Slika 2: Pripravljalna dela (diagram aktivnosti UML).

Člani skupnosti podpišejo *razdelitveni sporazum*, da se strinjajo s podatki na *razdelitvenem izkazu*. Pripombe in predloge je mogoče podati celo na končno različico *elaborata nove razdelitve zemljišč*. Na podlagi *elaborata nove razdelitve zemljišč* se geometrično in numerično opredeljene parcelne meje skladno z Zakonom o evidentiranju nepremičnin (ZEN) prenesejo v stvarnost, torej na zemljišča. Z mejniki se označijo lomi mej zemljišč, ki dobijo katastrski status urejene meje. Člani agrarne skupnosti so pisno objavljani na seznanitev z na novo dodeljenimi zemljišči v naravi. Ob seznanitvi se vodi zapisnik, v katerem posamezni udeleženci podpišejo izjave, da so seznanjeni s potekom mej zemljišč v naravi. S tem dejanjem prevzamejo novo razdeljeno stanje zemljišč v začasno posest. Začasna posest traja, dokler ni njihov podpis z zapisnika o seznanitvi notarsko overjen. Upravna enota izda *odločbo* zemljiškokatastrskega dela *elaborata nove razdelitve zemljišč*. Na odločbo se lahko stranke pritožijo. Odločba je podlaga za vpis



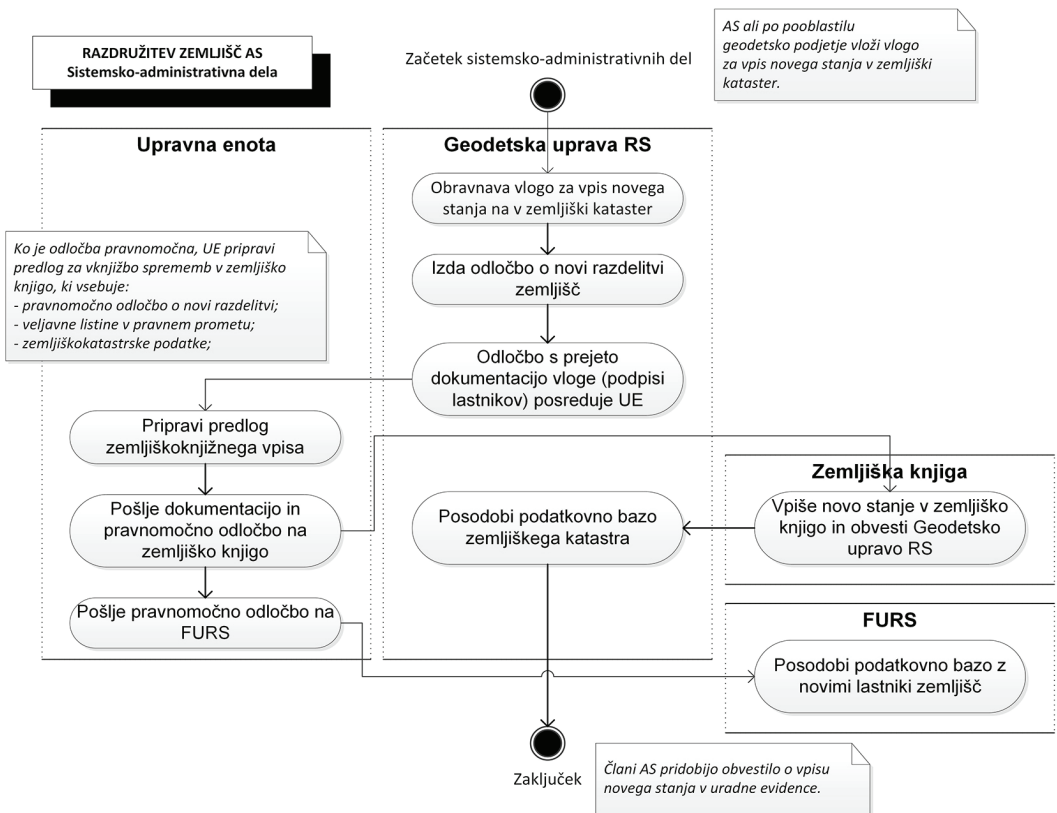
v katastrske evidence. To je mogoče z izkazovanjem končnega stanja razdelitve šele po vnosu sprememb, ki so nastale kot posledica reševanja pritožb na odločbo o novi razdelitvi. Ob izdaji odločbe geodetsko podjetje pripravi *tehnično poročilo*, ki vsebuje stanje pred razdružitvijo zemljišč in po njej, časovni pregled poteka postopka in morebitne posebnosti, ki so se pojavile med izvajanjem katastrsko-geodetskih del.

#### 4.2.3 Sistemsko-administrativni postopki razdružitve nepremičnega premoženja agrarne skupnosti



Slika 3: Operativni prikaz razdružitve nepremičnega premoženja agrarne skupnosti (diagram aktivnosti UML).

Razdruževanje nepremičnin agrarne skupnosti z vidika sistema zemljiške administracije vključuje štiri glavne deležnike, in sicer Geodetsko upravo Republike Slovenije (GURS), zemljiškoknjižno sodišče, Finančni urad Republike Slovenije (FURS) ter upravno enoto. Njihove postopkovne povezave bomo opredelili v tem razdelku. Geodetsko podjetje odda izdelane elaborate ter končno tehnično poročilo na ustrezne institucije sistema zemljiške administracije, ki dokumente obravnavajo v naslednjem vrstnem redu. GURS izda *odločbo o novi katastrski razdelitvi zemljišč* in jo z notarsko overjenimi podpisi lastnikov posreduje upravni enoti. Upravna enota predlaga zemljiškoknjižnemu sodišču vknjižbo spremembe pravic lastnikov na zemljiščih po pravnomočnosti *odločbe o katastrski razdelitvi* obravnavanega območja. Pri tem predloži kopije zemljiško-katastrskih načrtov nove razdelitve zemljišč ter listine o pravnem prometu z zemljišči v postopku razdelitve zemljišč agrarne skupnosti. Pravnomočno odločbo GURS posreduje upravna enota tudi na FURS. Geodetska uprava, po pravnomočnosti lastne odločbe, evidentira novo katastrsko stanje zemljišč v informacijskem sistemu zemljiškega katastra. Pri tem se, do vpisa lastninske pravice v informacijski sistem zemljiške knjige, kot podatek o lastnikih zemljišč novo nastalih katastrskih parcel v kataster vpišejo začasni lastniki (slika 2). Na geodetski upravi po prejemu pravnomočnega sklepa o vpisu novih lastninskih pravic z zemljiškoknjižnega sodišča v sistemu zemljiškega katastra evidentirajo novo razdelitev zemljišč z novimi parcelami in lastniki, meje zemljišč pa dobijo status katastrsko urejenih mej (Slika 4).



Slika 4: Vloga sistema zemljiške administracije v delitvi nepremičnin agrarne skupnosti (diagram aktivnosti UML).

Predstavitev rezultatov sistemske analize, izvedene z modeli aktivnosti v UML, zaključujemo z diagramom aktivnosti razdruževanja nepremičnin agrarne skupnosti z vidika sistema zemljiške administracije. Ko se praktično izvaja kombiniran interaktivni pristop razdeljevanja v geoinformacijskem okolju, se poskuša optimizirati potek meja med parcelami tudi tako, da so meje ravne linije ali lomljenke s čim manj lomnimi točkami. S tem se zagotovi ekonomičnost označevanja novih meja v naravi, in sicer z manjšim številom mejnikov. S tem se zmanjša tudi količina pripravljanih del za označitev mej v gozdu, ki jih mora na terenu opraviti geodet izvajalec zakoličbe mejnikov.

V postopku razdelitve premoženja agrarne skupnosti geodet usmerja postopek koordinacije, mediacije in delno tudi pogajanj, predvsem pri odločanju o lokacijah prihodnjih novih parcel, na kar pa vplivajo tudi zunanji dejavniki, kot so terenska raznolikost območja in omejitve rabe prostora ter stalnost prebivanja deležnikov v naselju obravnavane agrarne skupnosti. Udeleženci lahko konstruktivno sodelujejo v procesu razdeljevanja predvsem na sestankih, organiziranih za razgrnitev informacij o modeliranju nove razdelitve skupnega premoženja, pri čemer koordinator skrbno spremlja potek dogajanja in poskuša preprečiti nastanek konfliktov.

## 5 RAZPRAVA IN SKLEP

V prispevku smo podrobno obravnavali operacijo upravljanja zemljišč, to je množični katastrski postopek, s katerim se skupna zemljišča agrarne skupnosti preuredijo z razdelitvijo skupne lastnine ali solastnine med posamezne člane. Skupno zemljišče agrarne skupnosti je običajno območje nižje kakovosti od zemljišč v okolici, locirano v bližini vaških naselij, ki ga člani agrarne skupnosti skupno izkoriščajo – praviloma so to skupni pašniki ali gozdovi. Agrarne skupnosti so v okviru veljavne zakonodaje združenja posameznikov, ki jih povezuje isto zemljišče oziroma nanj vezane nepremičninske pravice. Agrarne skupnosti obstajajo že več stoletij, v Sloveniji se jih je kljub številnim zemljiškim reformam v preteklih stoletjih ohranilo več kot petsto. Skupnosti se med seboj razlikujejo po vrsti lastnine (skupna lastnina, solastnina), številu članov, obsegu premoženja ter zakonodaji, po kateri se ustanavljajo in upravljajo. Na področju agrarnih skupnosti veljata dva zakona: Zakon o ponovni vzpostavitvi agrarnih skupnosti (ZPVAS, 1994) in Zakon o agrarnih skupnostih (ZAgrS, 2015). Zakona sta podlaga pri določanju stopnje soglasja glede razpolagalnih deležev članov, potrebnih za odločanje v poslih, ki presegajo okvire rednega upravljanja premoženja agrarne skupnosti in med katere spada tudi razdružitev nepremičnega premoženja agrarne skupnosti.

Glavni razlog za razdružitev zemljišč agrarnih skupnosti ni samo nezainteresiranost za sodelovanje v skupnosti, temveč predvsem zakonska možnost, da lahko vsak član pridobi v last in posest zemljišče v velikosti, ki je sorazmerna njegovemu deležu v solastnini. Tako ima vsak posameznik možnost neodvisnega gospodarjenja z zemljišči, pri čemer se predpostavlja boljši izkoristek zemljišč, predvsem pa enkratna kapitalizacija premoženja z individualno odprodajo lastnine po razdružitvi skupnega premoženja. Seveda je treba opozoriti, da se **z operacijo razdruževanja** skupnega premoženja agrarne skupnosti vnašajo pomembne spremembe na področje upravljanja nekdanjih skupnih zemljišč, kot so skupni pašniki in skupni gozdovi, in da **takšna rešitev ni vedno primerna, če želimo ohraniti tradicionalne oblike upravljanja zemljišč in stroškovno učinkovito gospodarjenje z zemljišči, kot ga zagotavljajo oblike skupnega lastništva premoženja**. V Skandinaviji, kot smo predstavili v začetku prispevka, so ugotovili še, *da se*

*majhne gozdne parcele kažejo kot izjemno težavne z vidika ekonomike in tehničnih zahtev gospodarjenja z gozdovi, zaradi česar se odločajo za dodatne instrumente za vzpostavljanje večjih skupnosti lastnikov gozdov, ki omogočajo vzdržnejše upravljanje gozdov.*

Če člani agrarne skupnosti vendarle izkažejo interes za delitev premoženja, se začnejo obsežna pripravljala dela, povezana predvsem z izdelavo oziroma pridobitvijo ustrezne dokumentacije za izdajo sklepa o uvedbi in zagotovitvijo finančnih sredstev. Člani agrarne skupnosti, ki so zainteresirani za razdelitev, poskušajo zagotoviti ustrezen razpolagalni delež, saj želijo postati samostojni lastniki zemljišč, s katerimi bi lahko svobodno razpolagali in ne bi bili še naprej odvisni od skupnosti. Člani skupnosti imajo raznolike zamisli o izboljšanju učinkovitosti izkoriščanja premoženja, pri čemer danes v Sloveniji nekako prevladuje koncept samostojnega lastništva in s tem neodvisnega upravljanja pripadajočega premoženja z možnostjo njegove odprodaje po tržnih cenah, kar je po naših ugotovitvah glavni motiv za razdruževanje. Prodajne cene razdeljenih zemljišč so precej višje od cene nerazdeljenih deležev na skupni lastnini.

Postopek razdružitve zemljišč smo v članku opisali kot operacijo upravljanja zemljišč z vidika geodeta izvajalca in koordinatorja aktivnosti ter **projektanta razdružitve agrarne skupnosti** ter z vidika sistema zemljiške administracije. Izvedeno sistemsko analizo smo prikazali z diagrami aktivnosti ter z njimi ponazorili vzročno in časovno sosledje posameznih korakov operacije kot tudi vlogo posameznega deležnika v takem procesu. Geodetsko podjetje v postopku najprej oblikuje dve skupini zemljišč, in sicer jih loči na tista, ki še naprej ostanejo del agrarne skupnosti, in preostala, ki so predmet delitve. Nato člani agrarne skupnosti in gozdni načrtovalci iz ZGS določijo območja gozdnih vlak. Izvajalec intenzivno, z vsemi deležniki, išče rešitev za pravično razdelitev zemljišč agrarne skupnosti. Ko se z razdelitvenim izkazom novih zemljišč strinjajo vsi člani skupnosti, geodet prenese geometrične podatke novega stanja zemljišč v stvarnost. Postopek se zaključi, ko izvajalec geodetskih storitev posreduje vso dokumentacijo izvedenih postopkov institucijam sistema zemljiške administracije, da sprejmejo ustrezne odločitve ter posodobijo baze podatkov v njihovi pristojnosti.

Na trajanje postopka za razdelitev premoženja agrarne skupnosti pomembno vplivajo količina in velikost območij skupnih zemljišč (katastrskih parcel), pa tudi število njenih deležnikov. V obravnavi študijskega primera agrarne skupnosti Zgornja Sorica smo opazili pojav zmanjševanja ali prenehanja pomembnosti skupinskega delovanja in prehajanje v individualizacijo kot posledico ekonomske tranzicije, povečane mobilnosti prebivalstva, sprememb v miselnosti, predvsem samozadostnosti ter spremenjenih družbenih vrednot, ki pomembno vplivajo na spremembo ali celo izgubo nekdanjega pomena agrarnih in pašnih skupnosti.

Poudariti je treba pomembnost vloge, ki jo ima v operaciji katastrske preureditve agrarne skupnosti pooblaščen inženir geodetske stroke. Geodetsko podjetje, ki ga agrarna skupnost izbere za izvajalca razdelitve nepremičnega premoženja, je vključeno v vse faze postopka, in sicer od preverjanja zainteresiranosti članov, prek podrobne predstavitve postopka članom, različnih geodetskih del pa vse do priprave ustrezne dokumentacije in drugih del. Poleg tega geodet sodeluje z vsemi, ki na obravnavanem območju kakorkoli posegajo v prostor ali ga upravljajo. Pooblaščen inženirji geodezije so ključni organizatorji aktivnosti projekta ter povezovalni, koordinacijski člen med vsemi vpletenimi deležniki. Glavni deležniki pri razdružitvi zemljišč agrarne skupnosti so člani skupnosti, strokovnjaki ZGS, revirni gozdar ter tri institucije sistema zemljiške administracije (GURS, upravna enota, zemljiškooknjižno sodišče in FURS).

Velik izziv za geodetska podjetja je tudi programska oprema, ki ni prilagojena za tako zapleten postopek katastrskega preurejanja zemljišč, saj še ne obstaja računalniški program, s katerim bi lahko samodejno ali plosamodejno razdelili zemljišča agrarne skupnosti. Pri tem je namreč treba upoštevati mnogo različnih dejavnikov, kot so oddaljenost obravnavanih zemljišč od javnih poti in vlak ali oddaljenost od zemljišč, ki so že v posamični lasti članov agrarne skupnosti, oddaljenost od gospodarskih objektov članov, kakovost gozda (vrsta gozda), raba zemljišča (gozdna, kmetijska, stavbna) ter navsezadnje individualne želje članov. Sistemske rešitve za uravnoteženo razdeljevanje zemljišč so zato zelo zapletene, kar zahteva dodatne analize, ki bodo omogočile nadgradnjo sedanjih enostavnih sistemov za podporo odločanju.

Agrarne skupnosti so verjetno najbolj trajnostni način organizacije izkoriščanja in upravljanja gozdov, pašnikov in drugih površin na območjih z omejenimi dejavniki, kjer gospodarjenje ni ekonomsko najbolj donosno. Sociološka, pravna in ekonomsko-politična vprašanja o vzrokih za razkroj agrarnih skupnosti v Sloveniji sicer niso predmet obravnave pričujočega prispevka.

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