

Division 6: Social, Economic, Information and Policy Sciences
Research Group 6.13.00: Forest Law and Environmental Legislation



Legal Aspects of European Forest Sustainable Development

Proceedings of the 5th International Symposium
Židlochovice, Czech Republic

Editors

Franz Schmithüsen, Kateřina Trejbalová, Karel Vančura



Forestry and Game Management Research Institute
Jíloviště - Strnady 2004



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PREFACE

The 5th International Symposium on "Legal Aspects of European Forest Sustainable Development" was held in Zidlochovice Castle (Czech Republic), 29 – 31 May, 2003. The meeting was sponsored by the "Forests of the Czech Republic, State Enterprise" and the Forest Department of the Ministry of Agriculture of the Czech Republic. Substantial support was provided by the Swiss Federal Institute of Technology Zurich (ETH Zurich). The meeting was organized by Karel Vancura (Forestry Development Department), Michal Hrib (Forests of the Czech Republic, State Enterprise) and Martin Chytrý (Forest Policy Department of the Ministry of Agriculture) and their respective teams, and Peter Herbst (IUFRO 6.13.00). Altogether, 28 participants representing 14 countries participated in the 2003 Symposium. 5 more countries were represented through authors providing voluntary papers.

This meeting was the fifth in a row, following the previous four meetings in Ossiach / Austria 1998 and 1999, Jundola / Bulgaria 2001 and Jaunmokas / Latvia 2002 on "Experiences with new forest and environmental laws in European countries with economies in transition". The objectives of the symposium in Zidlochovice were again to promote the exchange of information amongst researchers and practitioners active in the field of forest law and environmental legislation development, with main emphasis on Eastern and Central European countries. The symposium provided another excellent occasion for the exchange of experiences concerning the formulation, implementation and administration of forest and forest related law, offered an opportunity for the participants to get familiar with the developments of the legal situation in their respective countries, and contributed to fruitful discussion and exchange of professional experiences. A number of open questions and impending problems have been identified during the meeting.

The symposium started with the formal welcome speech by Jaromir Vasicek, Deputy Minister for Forestry of the Czech Republic. Information on IUFRO, its status and achievements was provided by its Executive Secretary, Heinrich Schmutzenhofer. Five sessions covered topics such as the role of legislation in general, a questionnaire assessment of the present situation within each country, the role of private and public forest owners, sustainable forestry development, nature and landscape protection, and harmonization of legislation with the EU. The research group was happy to welcome colleagues from Georgia and Iran for the first time. I thank the Forestry Development Department and the Forestry and Game Management Research Institute of the Czech Republic for their willingness to publish the Proceedings of the 2003 Symposium.

The 2003 Symposium was a big success and everybody felt that there was a high demand for a follow-up in order to continue the discussions on open questions (left open and new ones) and to consider latest developments concerning the sector. I am glad that we shall be able to organize the 6th International IUFRO 6.13.00 Symposium on "Legal Aspects of European Forest Sustainable Development" in Poiana Brasov / Romania, in June 2004. We also envisage organizing the 7th International Symposium of our Group in April 2005 in Serbia.

Peter Herbst, Coordinator IUFRO 6.13.00

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**Welcome Address of the Vice Minister for Forestry, Ministry of Agriculture
Mr. Jaromír Vasicek**

Ladies and gentlemen,

I have a pleasure to welcome you on behalf of the Ministry of Agriculture of the Czech Republic, in the occasion of the opening of the International Symposium on Environmental and Forest Legislation. In spite of the long term discussion and legislative changes which occurs in many countries, particularly Central and Eastern European ones, the theme of this meeting, held in the frame of the work of IUFRO Division 6, is still very topical.

I understand that this meeting is not alone during the transition period of the last decade, which recommended promotion of development and improvement of legislation dealing with our nature and its very specific and irreplaceable element represented by our forests.

A month ago ministers responsible for forests met in Vienna during the 5th Ministerial Conference on Protection of Forests in Europe, in these days another Pan-European process – Environment for Europe – has its assembly in Ukraine. Important is that both processes considers a need of joint collaboration for the sake of our nature. Vienna Declaration of the MCPFE includes also commitment to create an environment for

- strengthening conditions for the economic viability of sustainable forest management and support the role of forests and forestry in maintaining and developing rural areas,
- taking measures to increase the use of wood from sustainable managed forests as a renewable and environmentally friendly resource, and measures to maintain the services of forests in providing protection from natural hazards,
- promote incentives for the sustainable management of forests, and remove incentives with a negative impact on forest biodiversity,
- fully reflect the socio-cultural dimension of sustainable forest management in forest related policies,
- address the challenges that [private and public] forest owners are facing in Central and Eastern European Countries, especially those related to changes in forest ownership,
-

Important also is to improve the understanding of how policies and strategies developed in other sectors strongly influence the forest sector and vice versa and identify key cross-sectoral issues, and interactions and, on this basis, establish a dialogue with main actors to seek joint solutions. And last but not the least to take effective measures to promote good governance and forest law enforcement in the forest sector.

It means *inter alia* to prepare and/or improve respective legislation and create legal environment, in which the implementation of laws will really be for the sake of the nature and consequently for the whole society. To be able to fulfil the principles of sound, sustainable forest management we need to improve a position of forestry and develop also better assessment system of economic and non-economic values of forests, of their goods and services. Both of them are important from very well known reasons.

In this connection I would like to stress that our economy - in transition - is still under difficult conditions but in spite of some problems I believe that we are, referring to forestry, a country with good prospects for future development. Forestry is not dominant sector in the Czech Republic from the economic point of view (GDP from the forest sector is only about 0.6%) but due to the emerging civilization problems, more and more people are beginning to

realize the importance of forestry for the whole society. We should use this fact and support activities aimed to the strengthening of all forest functions, including non-timber ones. There is an urgent need for better knowledge to have a tool for expression of non-wood benefits. We have to find the way how to attract various stake-holders, on one hand, to offer these services to the public, but on the other hand, how to reimburse them if they are suffering a loss voluntarily. And it also means to have a respective legislation in this field. Currently, there is under discussion an amendment of the Act on Protection of Nature and Landscape in our country. We suppose that also this law has to include provisions of the approach mentioned above.

Also meetings as yours could help to resolve sometimes contradicting issues such as economical profitability and environmental conservation. And in this point I would like to underline the equivalence of economy and ecology. Both sides are considered as important. I want to stress that we would really welcome and be thankful for every cubic meter of wood produced and marketed, of course, from the forests managed in a sound, sustainable way. We believe that it is also a way, how to help our nature and our environment as such.

This is a reason why we appreciate to organize this symposium in our country. We need more information, practical examples and exchange of views in the broader scale. In this context it would be interesting to know how your working group sees the future of forestry legislation. Is it a higher degree of regulatory legislative measures of state? Or, on the contrary, the lowering of regulation and improvement of voluntary steps, which are positively motivated, e.g. financially or through training and extension services offered? I believe that discussion results on this topic should be very useful as an inspiration for the next development of respective legislation dealing with forestry and environment.

Another interesting discussion should be on possibilities of bringing together regulatory parameters of particular countries e.g. for consideration or reviewing of the ecological dumping, for non-legal fellings etc. I wonder if any response on some of these topics or questions is in the proceedings of this symposium.

Ladies and gentlemen, today you have the 5th meeting referring forestry and environmental legislation. It also represents a way in which developed and developing countries under the umbrella of international organizations, such as IUFRO, can co-operate with each other to tackle the joint problems. I believe that in addition to the previous meetings also information exchange from this symposium will give you opportunity to pay more attention to practical implementation of knowledge received and that you will spend your time here fruitfully.

I wish you an interesting field trip and the most pleasant stay in our country.

IUFRO – THE NETWORK FOR FOREST RESEARCH

BY HEINRICH SCHMUTZENHOFER

Dear Colleagues,

it is a great pleasure to participate again in the symposium of this Working Group dealing with forestry and environmental legislation. As you know IUFRO, which celebrated its 110th anniversary last October, has developed from a home of standards to a modern service center. IUFRO is proud to cooperate in current multi-stakeholder dialogue and various initiatives towards improvement of forestry sector for the sake of the whole society. IUFRO's traditional role is to contribute with its expertise, but also to learn from all those processes, from cooperation of many different organizations, countries and backgrounds. We see ourselves as facilitator and promoter through our network, which can be described as follows.

IUFRO is a non-profit, non-governmental international network of forest scientists. Its objectives are to promote international cooperation in forestry and forest products research. IUFRO's activities are organized primarily through its 274 specialized Units in 8 technical Divisions.

The International Union of Forest Research Organizations IUFRO as the Advocate for Forest Science

- is non-profit, non-governmental and non-political;
- is an international scientific body founded in 1892;
- is open, non-discriminatory, voluntarily working and fully devoted to science;
- has a strong and coordinated presence all over the world;
- unites more than 15,000 cooperating member scientists in over 700 member institutions in over 100 countries;
- is an associate member of ICSU, the International Council for Science.

A vision of IUFRO is of science-based sustainable management of the world's forest resources for economic, environmental and social benefits.

And its mission is to promote the coordination of and the international cooperation in scientific studies embracing the whole field of research related to forests and trees.

IUFRO objectives are attained through -

- promoting and facilitating an international dialogue on forest science and the role of forests in human welfare;
- collecting and disseminating scientific knowledge on forest ecosystems, their products and services;
- enhancing cooperation between forest research organizations and individual scientists by means of a global network;
- promoting the dissemination and application of relevant research results and expertise using publications, recommendations, information technologies, training courses, work shops, conferences and congresses;
- providing and promoting science input into policy-making;
- compiling state-of-knowledge reports;
- harmonizing research terminology and techniques;
- addressing issues of regional and global significance with inter-agency or inter-disciplinary actions;
- recognizing outstanding work contributing to the advancement of forest science;
- assisting developing countries or countries with economies in transition to strengthen their research knowledge and capability.

IUFRO Stakeholders are organizations involved in research related to forests, forest products and services as well as forest conservation; individuals involved in forest and forest

product research; non-governmental organizations involved in forest-related issues; local, national and international decision-making authorities and administrations involved in forest-related issues and forest land-owners and other forest-dependent persons.

IUFRO is exceptional, because it is the only world-wide international organization devoted to forest research and related sciences. It contributes to the promotion of the use of science in the formulation of forest-related policies.

Benefits to Scientists from IUFRO Membership

- Benefiting from all the advantages of IUFRO's global networking.
- Eligibility for participation in the work of any of the 285 IUFRO research units.
- Eligibility for participation in the IUFRO Congress and all IUFRO meetings (approximately 90 annually); in some cases this includes reduced registration fees and in others there are possibilities of financial support for scientists from countries with developing and newly emerging economies.
- Access to IUFRO's web-site and databases (such as Libero, containing the proceedings of all IUFRO meetings, and Terminology); ability to link a member organization's own home page to IUFRO's web site.
- Access to the Global Forest Information System via the Internet.
- Advice on scientific and administrative issues including the planning and organization of scientific meetings, workshops, training courses, manuals, monographs and other products.
- Free receipt of all documentation from the IUFRO Secretariat including quarterly newsletter, electronic newsletter, annual report, other information brochures and reports, and Congress Proceedings and Reports; eligibility to place news items in IUFRO news media.
- Immediate notification (and in some cases discounted prices for) IUFRO priced publications.
- Eligibility for discounted prices of selected CABI publications.
- Eligibility to use IUFRO name and logo for scientific meetings.

Partners and Linkages

IUFRO has links to the UN system - FAO, ILO, ECE, United Nations University (UNU), Intergovernmental Panel on Climate Change (IPCC), Economic and Social Council (ECOSOC). There are a lot of other linkages and partners, e. g.: Centre for International Forestry Research (CIFOR), European Forest Institute (EFI), International Centre for Research in Agroforestry (ICRAF), International Network for Bamboo and Rattan (INBAR), International Plant Genetic Resources Institute (IPGRI), CAB International, Centre de coopération internationale en recherche agronomique pour le développement (CIRAD Forêts), Association Technique Internationale des Bois Tropicaux (ATIBT), USDA Forest Service, United States Agency for International Development (USAID), World Conservation Monitoring Centre (WCMC), International Institute for Aerospace Survey and Earth Sciences (ITC), World Forestry Center (WFC), International Institute of Tropical Forestry (IITF).

Publications

Reference Library of Proceedings from IUFRO Meetings and World Congresses held at the Secretariat IUFRO News, quarterly Noticias de IUFRO, IUFRO World Series, IUFRO Research Series, Occasional Papers, Special Brochures, Web Publications.

Internet access - main server: Austria <http://iufro.boku.ac.at/>; regional servers / mirror sites Australia, Chile, Costa Rica, Japan, South Africa and USA.

Some IUFRO Statistics

Member Organizations 689

Countries Represented 111

Divisions 8

Research Groups 70

Working Parties 202

Office Holders (Coordinators and Deputy Coordinators) 807

Countries Represented through Office Holders 67

Task Forces 9

Programmes and Projects 4

Annual Meetings/Conferences/Workshops (average of last 5 years) 80

Annual Proceedings (average of last 5 years) 70.

IUFRO Task Forces

The aim of the Task Forces is to strengthen IUFRO activities in specific areas. They contribute to the ongoing international processes and activities. There are as follows:

- Environmental Change
- Forests in Sustainable Mountain Development
- Management and Conservation of Forest Gene Resources
- Water and Forests
- Global Forest Information Service
- Service in Torrent Avalanche & Erosion Control, Austria
- Science/Policy Interface
- Public Relations in Forest Science
- The Role of Forests in Carbon Cycles, Sequestration and Storage
- Information Technology and the Forest Sector
- Forest Biotechnology

Special Programme on Developing Countries (SPDC) exists since the 1981. In the World Forestry Congress in Japan IUFRO was requested to "strengthen research related to forest resources in developing countries". IUFRO responded by creating SPDC, with initial funding from the World Bank and the United Nations Development Programme.

Since this time, IUFRO-SPDC has achieved many important milestones, notably:

- Enhancement of research capacity in developing and economically disadvantaged countries through information services, and the production and distribution of training materials, and the organization of courses.
- Assistance to numerous scientists from developing/disadvantaged countries to become part of IUFRO's global network of forestry organizations through support for attendance at international scientific meetings and workshops.

SilvaVoc, IUFRO's youngest project, follows old traditions of terminology work within the Union. In response to a present need for a clear and comprehensible language in international processes and activities in forestry, SilvaVoc provides a forum for foresters and their counterparts in decision-making. In February 1995, it was established as a service unit within the IUFRO Secretariat and functions as a clearinghouse for terminological activities in forestry. It is based on the cooperation with the many experts belonging to IUFRO. Coming to the end I would like to underline the importance of this activity also for those people who are involved in legislation process – particularly in this field is the clear definition of importance and can improve the common understanding.

And last but not the least – only in brief: Global Forest Information Service (GFIS). The mission of GFIS is to enhance access to and provision of quality forest-related information, especially that available through electronic media. Its benefits are:

- Easier access to global forest-related information;
- Better comparability of information and data sets;
- Improved user feedback to information providers;
- Identification of information gaps;
- Generation of value-added products;
- Facilitation of research results dissemination of and enhanced profile for researchers.

COMPARISON OF ENVIRONMENT PROTECTION LEGISLATION IN COUNTRIES OF THE SOUTH EAST EUROPEAN REGION

BY STANISIC MIRJANA, JOVIC DUSAN, NONIC DRAGAN

Abstract

In accordance with the principle of sustainable development (Rio de Janeiro) forestry and protected areas are opening a new chart regarding environment and nature protection. Local areas (states) loose their local significance, and nowadays and in future they will increase regional cooperation between countries in the same region. By taking the example of the Balkan region (Croatia, Macedonia, Bulgaria, Romania and Serbia) similar developments of legislation regarding nature protection can clearly be perceived. The goal of regional cooperation should be harmonization and multifunctional connections of the laws and institutions of all countries in the region with the EU.

Key words: Balkan region, environment legislation, nature protection, forestry, international conventions, harmonization, EU.

Introduction

The South East European region (SEE Region) refers to Albania, Bosnia and Herzegovina, Bulgaria, Croatia, the Former Yugoslav Republic of Macedonia, Romania and Serbia and Montenegro. South Eastern Europe has a total land area of 645,000 km² and a population of 56 million, with large variation in size: Romania with 22 million people is ten times larger than FYR Macedonia. Per capita incomes in the SEE countries also span a wide range from US \$4,550 per capita in Croatia - which is roughly equivalent to the CEE average - to US \$930 per capita in Serbia and Montenegro (Table 1). However, it is important to note that in almost all countries official GNI figures are likely to be significantly underestimated due to the large informal sectors in these economies.

Table 1. Country population and GNI

Country	2001 Population (in millions)	2001 GNI, Atlas method (US \$ billions)	2001 GNI per capita, Atlas method (US \$)
Albania	3.2	4.2	1,340
Bosnia and Herzegovina	4.1	5.0	1,240
Bulgaria	8.0	13.2	1,650
Croatia	4.4	19.9	4,550
Romania	22.4	38.6	1,720
Serbia and Montenegro	10.7	9.9	930
FR Macedonia	2.0	3.5	1,690

Source: The World Bank: "World Development Indicators Database: 2002", Wash. D.C., The World Bank, 2002

The past decade of transition and conflict has left the region with a legacy of inadequate growth and declining living standards. Generally, the region is extremely heterogeneous in levels of income and population, and also in the region's structural and social development. This heterogeneity poses a major challenge for the design of a regional strategy. In turn, this heterogeneity is reflected in the countries different relationships with European institutions, particularly the EU. Bulgaria and Romania have signed association agreements with the EU and, during the EU Summit in December 1999 in Helsinki, they were

invited to begin negotiations for accession. The EU has recently authorized negotiations for a Stabilization and Association Agreement (SAA) with FYR Macedonia. Other countries are not yet in an association status with the EU, but they have five areas where policy reform appears to be of a high priority: private sector development, poverty reduction and social development, institutional development and governance, infrastructure policies, and environmental policies.

Basic environmental acts and laws

Policy, legal and institutional frameworks in the SEE countries are similar to the ones in Central and Eastern European countries. There are environmental policy statements, and constitutional recognition of the right to a healthy environment, which are unique for all and present the basics of environment protection in the mentioned SEE region countries.

Table 2. Basic environmental acts

Country	Constitution Act	Law on Physical Planning (Spatial Plan)	Law on Environmental Protection
Albania	1998	1993	1993
FBIH	1995	1987	1974
Republic of Srpska	1994	1996	1974
Bulgaria	1991	2001	1998
Croatia	1990	1998	1994
Romania	1991	2000	1995
Serbia and Montenegro	2002*	1995	1991
FR Macedonia	1991	1996	1996

* in 2002 The State Union of Serbia and Montenegro has adopted the Constitution Chart

In **Albania**, the framework Law on Environmental Protection was adopted in 1993. Further, in 1995 by Decree of the Council of Ministers, some institutions were obliged to deal with environmental monitoring of air, water and soil and to provide the National Environment Agency (NEA) with relevant data. There are number of laws which have been approved since 1991 and present important advancements in the legislative area. This refers to the: Law on the Land and its Distribution (1991), Law on the Forests and the Forest Service Police (1992), Law on Hunting and Wildlife Protection (1994), Law on Protected Areas (2002), Law on Water Resources (1996). A number of complementary laws and regulations have been drafted and approved, for example, the draft laws on “Air Protection”; “Gaseous Emission Standards” and “Environmental Impact Assessment”, as well as an updated draft of a law regarding environmental monitoring.

According to the Constitution (1995), **Bosnia and Herzegovina** is composed of two Entities: the Federation of Bosnia and Herzegovina (FBIH) and the Republic of Srpska (RS). The Constitution does not explicitly assert rights to the environment and to access to environmental information, as it was the case with the constitution of the former Yugoslavia. In Republic of Srpska, a right to a healthy environment is incorporated in the Constitution adopted in 1994. Both entities prepared draft Environmental Laws, but they have not been adopted. The main reason for that is that both, Federal and RS Laws, are not harmonized between each other, as well as not adjusted to the EU principles. Environmental legislation has been prepared through an EC project "Preparation of Environmental Law and Policy in B&H" (REC, 2000). According to the Government (2002) the following legislation

is currently under parliamentary discussion: Draft Law on the Protection of the Environment, Draft Law on the Protection of Waters, Draft Law on the Protection of Nature, Draft Law on Waste Management, and Draft Law on the Protection of the Air.

Generally, **Bulgaria** is at present a leading country in harmonization of domestic laws with the EU legislation in SEE region. The following laws were adopted since 1991, and are mostly in line with EU legislation: The Clean Air Act (1996), related to the Framework Directive - 96/62/EC and the new European Directives on Air Quality assessment and management, the Water Act (1999), the Law on Protected Areas (2000), the Law on Nature protection (1968), the Forestry Act (1998), the Agricultural Land Protection Act (1996).

Basis environmental legislation in **Croatia** comprises various laws: Law on Environmental Protection (1994), Law on Agricultural Land (1994), Law on Nature Protection (1994), Law on Forests (1990), Law on Air Quality Protection (1995), Law on Water (1995). Other texts also regulate nature and environment protection such as the: Development Strategy of Croatian Agriculture, Traffic Strategy, National Programme for the Protection of the Cultural Heritage, Programme of Development and Organization of the Croatian Energy Sector, Strategy for Environmental Protection, and Strategy for the Future Development of the Republic of Croatia..

The new legal system in **Romania** is based on the Constitution of 1991. Statutory control is provided by legal acts comprising: (i) primary legislation, i.e. laws and so-called urgent ordinances (i.e. temporary laws passed by the Government for immediate implementation, but not submitted to the debates and approval of Parliament; they are transformed later into current legislation, after having been submitted to and adopted in Parliament); and (ii) secondary legislation in the form of government decisions, ministerial orders and instructions, which are legally binding. Secondary legislation is aimed at the implementation and the enforcement of existing laws and urgent ordinances. Environmental protection in Romania has its framework law - Law on Environmental Protection (1995). According to article 88 of this Law, special laws have been drawn up such as: the Forest Code (1996), the Law on Water (1996), the Land Law (1991, 1997, 2000). In 2000 other important laws were adopted: the Urgent Ordinance on Atmosphere Protection, and the Urgent Ordinance on the Protection of Natural Areas.

The environmental legislation in **FYR of Macedonia** is currently under revision. New laws or amendments to existing laws on specialized areas of environmental protection are planned. The present framework law on environmental protection is the Law on the Environment and Nature Protection and Promotion adopted in 1996. This law follows the principles of the 1994 Model Law on the Environment of the Council of Europe. Other basic laws regulating environmental policy are: Law on the Conservation of National Parks (1980), Law on Air Protection Against Pollution (1981, 1990, 1993), Law on Forests (1997), Law on Waters (1998, 2000), Law on Agricultural Land (1998).

Due to changes in 2003 (Federal Republic of Yugoslavia – The State Union of Serbia and Montenegro), competencies regarding the environment in all federal laws did become a part of the republics' legal system. Important environmental laws and regulations in **Serbia** include: Law on Waters (1991, 1993, 1994, 1996), Law on Forests (1991), Law on Agricultural Land (1992, 1993, 1994, 1995, 1996, 2000), Law on National Parks (1993, 1994). The Republic of **Montenegro** published the Law on the Environment in 1996. This Law provides the main principles, such as polluter pays, environmental impact assessment, data transparency and user pays for environmental protection. Other relevant laws are: Law on Air Protection (1980), Law on Waters (1995), Law on Nature Protection (1978, 1982), Law on National Parks (1991), Law on Forests (1993), Law on Agriculture (1992).

Table 3 presents the current status of relevant laws addressing air, forests, nature protection, soil and water for the SEE region countries.

Table 3. Relevant environmental laws

Laws	Air	Forests	Nature	Soil	Water
Countries					
<i>Albania</i>	-	1992	2002	1991	1996
<i>FBIH</i>	-	2002	1970	1998	1998
<i>Republic of Srpska</i>		1994			
<i>Bulgaria</i>	1996	1998	2000	1996	1999
<i>Croatia</i>	1995	1990	1994	1994	1995
<i>Romania</i>	2000	1996	2000	2000	1996
<i>Serbia</i>	-	1991	1994	2000	1996
<i>and Montenegro</i>	1980	1993	1982	1992	1995
<i>FYR Macedonia</i>	1993	1997	1980	1998	2000

Environmental strategies

The first phase of the National Environmental Strategy in **Albania** was completed in 1992 followed by a second phase in 1993. The National Environmental Action Plan (NEAP) was prepared in 1993 on the basis of the National Environmental Strategy. The NEAP constitutes a detailed analysis of this strategy and has defined tasks for Ministries and Institutions with activities that have an impact on the environment. In the meantime, different policy documents have been prepared: National Water Strategy (1996), National Waste Management Plan, National Biodiversity Strategy and Action Plan (2000).

Each area of environmental protection in **Bosnia and Herzegovina** is under the responsibility of the respective entity. The Environmental Steering Committee for B&H (ESC B&H) was established in 1998 as an inter-entity body for the harmonization and co-ordination of entities with important environmental activities. The Committee has prepared the National Environment Action Plan (NEAP), which has not yet been adopted. Therefore, documents such as national environmental strategies, programs and plans in Bosnia and Herzegovina have so far not been adopted either.

The frame for modern environmental legislation in **Bulgaria** has been set with the adoption of the Environmental Protection Act in 1991. The Act revised the system of environmental standards and introduced the polluter pays principle, the right of the public to be informed and the prevention principle. The environmental strategy in Bulgaria was developed in 1992, updated in 1994 and resulted in a ministerial program that determined the main priorities of the country for the period up to the year 2000. A new National Strategy for the Environment and Action Plan 2000-2006 was adopted in 2001. A considerable number of legal documents (laws and regulations) that regulate different sectors of the environment were adopted. The fast development is due to the necessity to adapt legislation to new socioeconomic conditions in the country, and to transpose the EU environmental law as a precondition for the EU accession process.

In 1992 the State Parliament of the **Republic of Croatia** passed the Declaration on Environmental Protection. It called for the establishment of a legislative system in accordance with international treaties, and with European and global standards that would ensure permanent, systematic and effective environmental protection and create conditions for sustainable development. The National Environmental Strategy (2002) and the Environmental Management Strategy, with long-term environmental management directives, have been created on the basis of the Environmental Protection Law. The strategy will serve as a basis of a National Environmental Action Plan (2002). In addition, the Physical Planning Strategy and Programme, the Sustainable Agricultural Development Strategy (1995), the Strategy for the Long Term Development of Croatian Tourism (1993 revised 1998) and the Long Term Plan for the Development of Water Management (1995) have been adopted.

The National Environmental Action Plan in **Romania** was presented to the Ministerial Conference ‘Environment for Europe’ in Sofia in October 1995, before the Romanian Government approved it. The most recent version of the NEAP was drafted in 1998 and contains all the main objectives for sectoral strategies, including agriculture and transport. The NEAP complies with the general principles and priority objectives of the Romanian Environmental Protection Strategy (1995). This Strategy was updated in 2000 and represents a unitary and integrating approach to environmental protection issues in the country. At the same time, the NEAP is being updated according to the National Program for the adoption of the EU body of law, as a basic element of the conditions to be fulfilled for integration in the European Union structures.

In 1996, the Government of **Macedonia** adopted the National Environmental Action Plan (NEAP), which is at present the main environmental strategy document. The Sector for European Integration within the General Secretariat of the Government (Council of Ministers) has worked out the Government Strategy for Approximation of the Legislation. The basic documents of the Strategy are the Action Plan for the Implementation of the Stabilization and Association Agreement and the National Programme for Approximation of the Legislation. Highest priority is given to horizontal legislation, including the Directive on Environment Impact Assessment, the Directive on Access to Environmental Information, the Directive on Information, and the Regulations of the European Environment Agency.

On June, 2001, the Government of the Republic of **Serbia** gave a Conclusion which obliged the former Ministry of Health and Environmental Protection to prepare a Law on the System of Environmental Protection (within OSCE project on the draft law) that would comprise management of sustainable use and protection of natural resources, and introduce environmental principles regarding air, water, soil, flora, fauna, biodiversity, protection from and ionized and non-ionized radiation, and handling of hazardous and other waste materials. Until now, there is no National Environmental Strategy or National Environmental Action Plan since there is no legal obligation to provide them. In 1991, the Parliament declared **Montenegro** as ‘Ecological State’. This statement later formed part of the constitution and reflects a commitment of the government at the highest level to protect the environment. In March 2001, the government adopted the “developmental directions of Montenegro, the Ecological State” which provided long-term strategic directions, including environmental, economic and social aspects.

International Environmental Conventions

Harmonization of the national legislative framework with EU directives, with regard to all aspects of sustainable development, comprises as well obligations which result from international agreements and conventions. Table 4 shows the current status of ratification of UNECE Conventions in SEE region countries.

It is obvious that the Convention on Long-Range Transboundary Air Pollution has been most widely accepted in the SEE region countries. On the other hand, the Convention on the Transboundary Effects of Industrial Accidents, this is ratified only in 3 countries (Albania, Bulgaria, and Croatia). Serbia and Montenegro are planning to ratify Aarhus and EIA Conventions.

All countries of SEE Region clearly show the intention to ratify the rest of the above mentioned Conventions; Bulgaria, Romania, Croatia and FYR Macedonia are already member Parties. Serbia and Montenegro have the intention to ratify the Bern, Bonn and UNCCD Conventions. Usually, appropriate laws and strategies follow the adoption and ratification of international conventions in all SEE region countries such as for instance the “Resolution on Biodiversity Protection of FR Yugoslavia”.

Table 4. UNECE Conventions

Countries	Conventions	LRTAP¹	Aarhus²	EIA³	TEIA⁴	Helsinki⁵
<i>Albania</i>		-	2001	1991	1994	1994
<i>Bosnia and Herzegovina</i>		1992	-	-	-	-
<i>Bulgaria</i>		1981	1998*	1995	1995	1992*
<i>Croatia</i>		1991	1998*	1996	2000	1996
<i>Romania</i>		1991	2000	2001	-	1995
<i>Serbia and Montenegro</i>		2001	-	-	-	-
<i>FYR Macedonia</i>		1997	1999	1999	-	-

¹ Convention on Long-Range Transboundary Air Pollution

² Convention on Access to Information, Public Participation in Decision Making, and Access to Justice in Environmental Matters

³ Convention on Environmental Impact Assessment

⁴ Convention on the Transboundary Effects of Industrial Accidents

⁵ Convention on the Protection and Use of Transboundary Watercourses and International Lakes

* *Signed parties*

Table 5. Ratification status of some environmental conventions

Countries	Conventions	Albania	B&H	Bulgaria	Croatia	Romania	S & M	FYRM
	<i>Ramsar¹</i>	1996	1992	1976	1991	1991	1992	1991
	<i>Paris²</i>	1989	1993	1974	1992	1990	2001	1997
	<i>CITES³</i>	-	-	1991	2000	1994	2002	2000
	<i>Bern⁴</i>	1999	-	1991	2000	1993	-	1998
	<i>Bonn⁵</i>	2001	-	1999	2000	1998	-	1999
	<i>Vienna⁶</i>	1999	1992	1990	1991	1993	1992	1994
	<i>Basel⁷</i>	1999	2001	1996	1994	1991	2000	1997
	<i>UNFCCC⁸</i>	1994	2000	1995	1996	1994	1997	1998
	<i>Biodiversity⁹</i>	1994	2002	1996	1996	1994	2002	1997
	<i>UNCCD¹⁰</i>	2000	2002	2001	2000	1998	-	2002
	<i>POPs¹¹</i>	2001*	2001*	2001*	2001*	2001*	2002*	2001*

¹ Convention on Wetlands of the National Importance Especially as Waterfowl Habitat

² Convention for the Protection of the World Cultural and Natural Heritage

³ Convention on International Trade in Endangered Species of Wild Fauna and Flora

⁴ Convention on the Conservation of European wildlife and Natural Habitats

⁵ Convention on the Conservation of Migratory Species of Wildlife Animals

⁶ Convention for the Protection of the Ozone Layer

⁷ Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal

⁸ United Nations Framework Convention on Climate change

⁹ Convention on Biological Diversity

¹⁰ United Nations Conventions to Combat Desertification

¹¹ Convention on Persistent Organic Pollutants

* *Signed parties*

Conclusion

All countries of SEE Region are in the process of harmonizing their national legislation with EU requirements as well as they have the objective to improve their general environmental strategies. In that context, Bulgaria and Romania, as countries which are involved in the negotiation for accession with the EU, have advanced further than other countries regarding harmonization and acceptance of EU directions. Due to the ten years of international isolation and the post war period with the new constitution and political changes, Serbia and Montenegro are trying to accelerate the adoption of new laws compatible with EU standards as well as to amend previous legislation. The first step should be the acceptance of a new Law on the System of Environmental Protection which serves as the basic document for the elaboration of a general environmental strategy. The lack of a National Environmental Action Plan provokes problems regarding the preparation of Local Environmental Action Plans, due to the deficiency of strategy law regulations. The ratification of environmental international conventions should present the second step after the harmonization of national legislation which creates effective conditions for the implementation of all commitments. Therefore, Serbia and Montenegro are in the process of acceptance of the Environmental Impact Assessment and Aarhus Conventions.

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FOREST POLICY NETWORKS IN CHANGING POLITICAL SYSTEMS: CASE STUDY OF THE BALTIC STATES

BY MARIUS LAZDINIS AND ANDREW CARWER

Abstract

Shift from the Soviet system to market economies has induced a wide range of changes in the forest sectors of the three Baltic States. All of these changes are the result of compromises made between stakeholders participating in the forest policymaking and implementation.

Policy instruments are not 'self-implementing' - their application demands organizational efforts, often not restricted to the activities of the implementing organizations. Policy designs are not purely technical and instrumental phenomena. Design works through people to produce consequences. Effective design must take into account the political, social, cultural, and economic circumstances of the individuals upon whom policy success depends, and must motivate individuals to engage in policy-preferred behavior.

In the increasingly complex and dynamic environment of forest interconnecting policy networks instead of applying hierarchical governance by the state will ensure policy planning the rationality of policies. Various studies demonstrated that the characteristics of policy networks could be helpful starting-points for attempting to clarify the way in which instrument function and policy designs work.

In this paper we map and characterize forest policy networks in Estonia, Latvia, and Lithuania, while identifying institutions participating in forest policy formation and implementation. Forest policy networks of the Baltic States are compared among each other and with the situation found during the last years of the Soviet system.

Introduction

A shift from the Soviet system to market economies has induced a wide range of changes in the forest sectors of the three Baltic States. These changes are the result of compromise solutions reached between stakeholders participating in forest policy formation and implementation. Most often the success or failure of a policy does not depend simply on the existence of statutes, programs, institutions, or funding levels. Nor are policy instruments self-implementing. Their application demands organizational efforts, often not restricted to the activities of the implementing organizations. Hence, the design of policy is of critical importance in understanding policy effects (Nagel 1990). Designs are not purely technical and instrumental phenomena. Design works through people to produce consequences. Effective design must take into account the political, social, cultural, and economic circumstances of the individuals upon whom policy success depends, and must motivate individuals to engage in policy-preferred behavior (Nagel 1990).

Not unlike other regions, forest resources in the Baltic States are administered through the utilization of public policy designs. In contemporary democratic society many types of actors other than political authorities participate in the processes of policymaking (Carlsson 2000a). Therefore, governments are advised to seek the cooperation and joint resource mobilization of policy actors outside of their hierarchical control (Glück et al. 2003). Effective public policy designs in the forest sector should ideally balance all interests and search for ways to solve problems created by the excessive influence of some and the lack of influence of others.

Glück *et al.* (2003) posits that policy actors pursue distinctive but interlined interests and coordinate their actions through interdependencies of resources and interests. Accordingly, the rationality of policies will be ensured by interconnecting representative

policy networks rather than by the application of hierarchical governance by the state (Glück *et al.* 2003). Various studies have demonstrated that the characteristics of policy networks can be helpful starting-points for clarifying the way in which instrument function and policy designs work (de Bruijn and Hufen 1998). The term ‘policy networks’ generally assumes the existence of two main features - links and actors - viewed from a horizontal rather than a vertical perspective (Carlsson 2000b). The network perspective can be characterized by its (1) non-hierarchical way of perceiving the policymaking process, (2) its focus on functional rather than on organizational features, and (3) its horizontal scope (Carlsson 2000b).

Public participation ensures that all relevant actors and stakeholders are involved in the planning and communication process. The coordination of political actors should be comprehensive, holistic and inter-sectoral, making sure that all sectors affecting forestry and affected by forestry are considered and externalities are internalized (Glück *et al.* 2003). Given the assumption that policymaking is performed in networks of actors rather than by formal political units, it is expected that the creation of politics and its outcome will differ, depending on how a policy area is organized (Carlsson 2000b).

According to Carlsson (1996), policy analyses studying such networks should concentrate on answering two crucial questions: (1) what is (are) the problem(s) to be solved? and (2) who is participating in the creation of institutional arrangements in order to solve them? In this paper we emphasize the importance of the variety of stakeholders in forest policy making. It is believed that broad participation of actors in forest policy formation and implementation processes can induce positive results. This study employs the policy network approach to map and characterize forest sectors in Estonia, Latvia, and Lithuania, while also identifying institutions participating in forest policy formation and implementation. Forest policy networks of the Baltic states are compared among each other and with the situation found during the last years of the Soviet system in order to explore how forest policy instruments and policy designs function.

Study area and Soviet context

Estonia, Latvia, and Lithuania are three small countries located at the shores of the Baltic Sea. During the period between World War II and the beginning of the 1990s, these countries were part of the Soviet Union and their development was an inseparable element of soviet politics. Though Estonia, Latvia and Lithuania experienced a period of ups and downs after declaring independence, by the year 2000 all three countries had completed the major steps in transition from centralized to market economies and were concentrating their efforts on integration into the European Union and NATO.

The Soviet constitution provided the state with an exclusive right to own the land, forests, minerals and water resources. The state also owned the factories, public utilities, news organizations, facilities for transportation, communication, health, education and culture, and most agricultural equipment and urban housing (Gardner 1997). According to the Soviet constitution, individuals could own only “articles of everyday use, personal consumption and convenience, the implements and other objects of a small-holding, a house, and earned savings” (Gardner 1997). Politics and economics were particularly linked.

The transition from the soviet system to the market economy largely affected the structure of forest policy networks in the three countries. In the Soviet Agro-industrial complex, the USSR State Committee for Forestry was situated under the Ministry of Agriculture (Litvin 1987). The Committee had common planning with the State Agro-Industrial Committee “Gosagroprom” and coordination ties with the USSR State Committee for Material and Technical Supply as well as the USSR Ministry of Trade (Litvin 1987). The Ministry of Forest Industries was included in the Chemical-Forest complex, which was responsible to the Council of Ministers. The Ministry of Forest Industries, among other

functions, was responsible for: (1) short-term planning; (2) effective territorial distribution of enterprises; (3) distribution of centralized investments; and (4) distribution of material resources among consumers (Petrov 1989). The State Committee of Forestry was an all-union central body of forest management responsible for long-term planning of forestry development, setting state orders to the republics by volume of silvicultural measures (Petrov 1989). The State Committee of Forestry was closely connected to the State Committee of Environmental Protection. The Republic Ministries of Forestry existed in all Republics and were mainly performing the silvicultural functions (Petrov 1989). The main features of the soviet forestry (each a subject of management reform at the start of 1990s) are summarized as follows: (1) centralized forest management; (2) number of centralized indices applied in planning; (3) centralized distribution of outputs; (4) centrally set inflexible wood product prices (Petrov 1989).

Forest users in the Soviet Republics and the USSR in general were the state cooperatives and public enterprises, mass organizations and other public institutions, and individual citizens (Ziegler 1990). However, due to the centralization of decision-making and dominance of the communist party in all levels of society, the role of the state in selection of forest policy instruments and policy implementation was overwhelming. Forest resources were to be used only according to the guidelines set down by the state and only on the basis of state authorization (Ziegler 1990).

Methodology

In this study, the forest policy networks of Estonia, Latvia, and Lithuania are viewed in the context of the comparative politics approach. Comparison is a principal method in the political sciences discipline (Peters 1998). The comparative method is defined as the “method of testing hypothesized empirical relationships among variables on the basis of the same logic that guides the statistical method, but in which the cases are selected in such a way as to maximize the variance of the independent variables and to minimize the variance of the control variables” (Lijphart 1975).

Peters (1998) indicates four possible dependent variables in the comparative study of public bureaucracies: public personnel (public employment), organizations in government, the behavior of public officials, and power. Mahler (1992) argues that there are three broad categories of subjects of examination in the comparative study of politics: (1) public policy; (2) political behavior; and (3) governmental institutions. Our study focuses on comparing not only governmental institutions, but also the entire policy networks, consisting of a variety of stakeholders.

Policy science should not only try to describe the features and structure of networks but also demonstrate to what extent they have some explanatory power of possible selection and implementation of policy instruments (Carlsson 2000b). Proponents of the network perspective argue that in order to understand how policies are actually created in society one has to search for problem-solving structures, instead of focusing on formal, political authorities, their decisions and programs. According to this view, the formal political skeleton must prove its importance and not to be taken for granted (Carlsson 2000b). In our study we adopted the view that policy emerges rather than is decided by formal decision units (*sensu* Carlsson 2000a).

A particular political institution cannot be extracted from its context and compared with institutions in other countries without taking into account the whole political system in which that institution is set (Ball and Peters 2000). Public administrators do not function in a closed environment. Instead, they interact both with other governmental officials (legislators, the political executive, other administrators, representatives of sub-national governments) and with unofficial political actors (largely the representatives of pressure

groups) (Peters 1995). Therefore, this study attempts to consider all institutions and organizations related to the forest policy formation and implementation processes. Along with the institutions with top-level decision makers and executives affecting and acting within national forest sectors, pressure groups, which can be subdivided into interest groups (professional representation) and attitude groups (environmental NGOs) are considered (see Ball and Peters 2000). Within this study, organizations participating in forest policy formation and implementation in each country are identified. An exploratory case study approach was employed (Yin 1989; GAO 1990).

With the limited scope of this paper and the confidentiality of information, it was not possible to analyze and compare financial capacities of individual organizations that participate in forest policy formation and implementation. Therefore, human capacities, and more precisely – employment information (and membership where applicable), was chosen as a proxy measure of the extent to which institutions/organizations can participate and influence forest policy formation and complete their tasks and objectives in the policy implementation processes.

However, even information on employment for the three countries was not readily available and easily comparable. Most of the information was received from the representatives of organizations, and in order to make it compatible, it had to be re-estimated by experts in the sector. Some problems with quantification were faced (especially while dealing with research and educational institutions) since quite a few individuals work in several places and on several projects simultaneously. Estimates for employees of NGOs are also approximate, since their activity levels typically depend on dynamic funding availability. Many larger organizations also contain a significant number of non-forestry staff – (e.g., State Forest Management Center in Estonia in total has 1,438 employees, however this number decreases to 1,197 when secretaries, bookkeepers, information technology, recreation and hunting management staff are excluded).

Results

Key actors in forest policy networks

Estonia: Administration of forest resources in Estonia is the responsibility of the Ministry of Environment (INDUFOR 2000). The Forest Department located within the ministry is in charge of forest policy formation processes. Forest policy implementation functions in management of state forests are trusted to the State Forest Management Center, which is the sole organization in Estonia managing state forests (Annual Report of RMK 2000). The Center of Forest Protection and Silviculture is charged with the monitoring of pests and pathogens, and issue permissions for sanitary clearcuts regardless of the ownership type. County Environmental Departments approve and register planned forest operations in all types of ownership. The Environmental Inspectorate deals with the law enforcement in forest management. Forest inventory and compilation of management plans for state forests are done in the Forest Survey Center, but plans for private/corporate forests can also be completed by the private companies, depending on who wins the tender. Three types of forest ownership are possible in Estonia – state, private, and corporate. Corporate forests are those which belong to the companies (e.g., Sylvester Group, Metsind, etc.).

Latvia: Administration of forest resources in Latvia falls under the responsibility of the Ministry of Agriculture (Domkins 2000; Ministry of Agriculture of the Republic of Latvia 2000). This institution maintains a deputy state secretary position dedicated solely to forest-related issues, which has two departments in its disposition: Department of Forest Policy and Department of Forest Resources. Both departments are responsible for the forest policy formation processes and the supervision of policy implementation at the highest level.

The Joint Stock Company “Latvian State Forests” is trusted with the management of a majority of the state forests in Latvia (47% of national land cover) (Latvijas Valsts Meži 2001). Municipalities manage small forest areas. The municipality of Riga city being an exception given its relatively large forest ownership of 56,000 ha and its administration of protected areas (Latvijas Valsts Meži 2001). The State Forest Service is the governmental agency responsible for control of forestry activities in forests of all ownership types.

Lithuania: Forest policy implementation in Lithuania falls under the responsibility of the Ministry of Environment (Lazdinis and Dudutis 2001). The ministry housed the position of vice-minister, dedicated especially for forestry issues. The Forest Department is located within this ministry. State Forest Enterprises are trusted with the management of state forests. The General Forest Enterprise is a mediating organization, responsible for supervision and coordination of activities carried out by the State Forest Enterprises. The State Environmental Protection Inspection contains the Regional Forestry Control Division which controls implementation of forest policies of all forest types and ownership.

Key actors excluded from further analysis

Not all actors relevant to the forest policy formation and implementation were included in the lists of relevant stakeholders. Activities of some organizations were considered as too overwhelming for the forest sector, and others – as too insignificant. E.g., Kallas (2000) indicated that both local municipalities and the Ministry of Finance have participated in Estonian National Forest Policy formulation process. However, neither local municipalities nor the Ministry of Finance are included in the list of main stakeholders in the Estonian (nor the Lithuanian or Latvian) forest sector. Here, it is believed that the effect of local municipalities on forest policy implementation is minor. These institutions are only second-hand beneficiaries of forestry activities in the Baltic states and have no direct influence over forest management planning or decision-making. The Ministry of Finance, on the other hand, has an encompassing effect on the entire forest sector, and especially on the administration of state forest resources. Therefore, this stakeholder, contrary to the local municipalities, is considered as having too general effect to be included in the study. Besides, Ministries of Finance in all three countries function under similar responsibilities and the comparison would not have revealed any interesting findings.

Tax authorities and military forces were also excluded from further analysis. Tax authorities play an important role in the forest sector; however in general, these organizations on their own are a minor actor in forest policy formation and implementation processes. Still, collection and control of tax payments and declarations, being a main responsibility of the tax authorities, also relates to forestry activities. E.g., under-collected income tax from timber sales is one of the major concerns in the forest sectors of all countries. Unfortunately, the direct inter-linkage between these organizations and the forest sector is too weak to consider them as key actors in the sector. The same can be noted about military forces. Despite the fact that these organizations are minor forest owners and users, their role in general forest policy formation and implementation is relatively small.

Comparative analysis

All organizations for each country were grouped according to their possible role in forest policy implementation. The following groups were distinguished: environmental and professional NGOs, forest scientists, timber industry, state forest-related organizations, other involved state organizations, private forest sector, and others (see Estonian Forestry Development Programme Office 1997; FAO 1999; Kallas 2000; Larsen and Brukas 2000).

The above stakeholder inventory reveals similar sets of actors in the forest policy formation and implementation processes of Estonia, Latvia, and Lithuania.

However, qualitative and quantitative differences among the same groups can be observed. While environmental NGOs and other involved state organizations appear to be of similar nature in all three countries, the fields of forest science, timber industry representation, and state-related organizations are notably different.

The stakeholder inventory shows that Lithuania has the largest number of scientific institutions participating in forest policy formation and implementation processes. The situation in this stakeholder group in Estonia and Latvia is relatively similar. Regarding timber processing industry representation, Latvia is a leader. This country has a range of interest groups defending the needs and objectives of individual segments of the timber-processing sector. The situation in Estonia and Lithuania in this industry field is relatively similar. The largest number of stakeholder organizations characterized, as “state forest-related organizations” is highest in Lithuania. This country has the most state organizations responsible for individual segments of forest policy formation and implementation. The situation in the private forest sector may be considered as relatively the same. Cooperation of private forest owners is in its initial phase. Representation of private forest owners by national organizations is very low (1% in Estonia and Lithuania; reliable information on Latvia is not available). Private logging companies are becoming an important stakeholder in forest sectors of all three countries. Unfortunately, more specific information on these organizations was not available. Additional emerging actors in the sector are companies preparing forest management plans. In Estonia, only three organizations were identified as being involved in preparing management plans. In Latvia, the number of companies preparing forest management plans is much higher. In Lithuania, any individual with forestry education can acquire a license to start a private business preparing forest management plans, thus making it too difficult to collect comprehensive and comparable data.

In order to learn whether there are quantitative differences between the three countries from the institutional perspective, employment levels in organizations were analyzed. In cases when organizations were not directly dealing with forestry issues, expert estimates were used to indicate the number of people involved in forest-related activities. The numbers of employees directly dealing with forest sector of each organization were added to calculate the total number of individuals of each stakeholder group participating in forest policy formation and implementation processes (Table 1).

Table 1. Number of individuals of each stakeholder group participating in forest policy formation and implementation processes

Stakeholder group	Estonia	Latvia	Lithuania
NGOs	10	9	14
Forest scientists	47	86	170
Timber industry	10	19	7
State forest-related org.	1687	2199	7768
Other involved state org.	5	5	11
Private forestry	35	36	52
Total	1794	2354	8022
Private forest owners	47242	159257	134604

The group of NGOs listed in Table 1, with the exception of environmental organizations also includes appropriate professional organizations. Organizations representing timber-processing companies however were included under the “Timber industry” group. The “Private forestry” group, due to the lack of comprehensive information, excludes private companies preparing forest management plans. Additionally, the total number of individuals

participating in forest policy formation and implementation in each country was calculated, as well as a present number of private forest owners provided. To facilitate visual comparison between the three countries, a star diagram was constructed from the data displayed in Table 1 (see Figure 1). To eliminate the distortions due to the differences in forested area and population, coefficients were calculated for the above star diagram and adjusted for national forest area and population when appropriate. The values for “NGOs” and “Private forest owners” were calculated for population of 1 million; size of “Private forestry” group – for 100 thousand hectares. The rest of the indicators were adjusted for 1 million hectares of forest area.

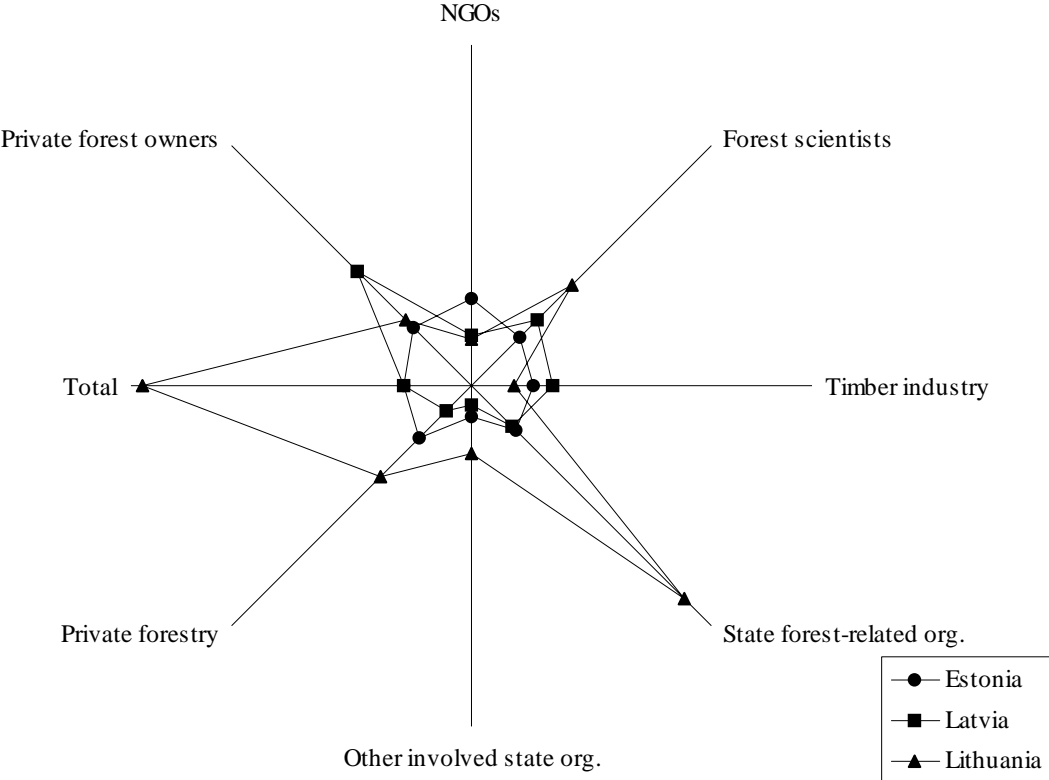


Figure 1. Relative size of stakeholder groups participating in forest policy networks of Estonia, Latvia, and Lithuania (adjusted by forest area or population size).

The star diagram, adjusted for the total national population, shows that environmental NGOs and professional organizations in Estonia exceed similar type of representation in Lithuania by roughly two-fold. Latvia is on a similar level as Lithuania. When adjusted for the national forest area, the differences in number of individuals employed to deal with forest-related scientific activities become smaller as compared to the actual values. However, still the value in Lithuania exceeds that of Estonia more than twice. The differences in timber industry representation are not very large, with Latvia being a leader, and Lithuania having the fewest.

However, unlike in the other groups of stakeholders, differences in the numbers of individuals employed by the state in state forest-related organizations (when adjusted for total forest area) become even greater. The number of state staff in Lithuania exceeds Estonia and Latvia by five times. Lithuania is found to be a leader in representation and cooperation of private forest owners. After the numbers of private forest owners were re-calculated (adjusting for national population), the differences between Latvia and Lithuania become

even greater. In this case, Estonia and Lithuania become very close in number of private forest owners per population of 1 million. This value in Lithuania and Estonia is almost two times smaller than in Latvia.

The difference in total number of individuals dealing with the forest-related activities after adjusting for national forest cover and population also became greater as mainly influenced by the state forestry staff. The values of this indicator for Estonia and Latvia become identical.

Discussion

Application of the principles of sustainable forest development requires a new understanding of the roles of the stakeholders in the forest sector (Kohler and Schmithüsen 2002). This new understanding implies an efficient state administration with decentralized local and regional structures, cooperation with other local and regional public entities, and a functional distribution of respective competencies. Developing the use and management of existing local and regional resource potentials also implies a systematic involvement of landowners and other stakeholders concerned. New policy instruments and coordination processes are crucial to reach a social consensus on the management and conservation of forest resources.

The structural composition of forest policy networks in Estonia, Latvia, and Lithuania is relatively similar. The only exceptions are few stakeholder groups. Differences in quantitative structure can be presented along the axis of state intervention into the forest sector. International discourse on sustainable forest management calls for the recognition of different societal interest groups. In a Central European context this implies a stronger participation of the public on the local level and the inclusion of different interest groups on regional and national levels (Weiss 2002). The participation of the public in forest policy networks may be assumed to be expressed by the number of non-governmental organizations (and their employees) active in the forest sector. Likewise, state intervention can be presented by the relative magnitude of state-funded organizations being active in forest policy networks.

In general, it may be considered that the central planning system may be responsible for several negative features of Estonian, Latvian, and Lithuanian forest sectors. These could be but are not limited to (1) lack of efficiency; (2) lack of initiative; (3) lack of competitiveness; and (4) little appreciation of economic principles. In this context, it may be observed that public administration of state forest resources is similar in Estonia and Latvia and different in Lithuania. This southern-most of the Baltic States still maintains operational state forestry structure similar to that found in the Soviet Union. For the management of state-owned forests, Lithuania employs a significantly larger number of staff as compared to Estonia and Latvia. The amount of staff employed by the state to carry out other than operational forestry forest-related functions (forest scientists, administration of protected areas, and etc.) and number of individual organizations is also the largest in Lithuania. In addition, the state of Lithuania funds two exceptional types of activities, which are absent in Estonia and Latvia - Lithuanian Society of Young Forest Friends and the monthly professional journal "Our forests".

On the other hand, if considering the non-governmental side of the policy networks, environmental NGOs concerned with forest-related activities seem to be the strongest in Estonia, and weak in Latvia and Lithuania. However, with such a small total number of participating individuals it is difficult to make any more specific conclusions and it seems that the strength of representation may depend on individual features of those in leadership positions? Various sections of timber industry are the best-represented in Latvia, followed by Estonia, and Lithuania being the last.

Examining membership and the degree of integration are two ways of comparing network constructs. Therefore, the policy networks can be characterized by assessing the dependence among actors and the possibility of exclusion (Carlsson 2000b). The relative dominance of the state in Lithuanian forest sector may be considered as a factor allowing for overly dependence of other actors on the interests of the governmental institutions. Consequently, risk of exclusion of the other actors from the forest policy network is also increased. On the other hand, relatively more balanced representation of variety of stakeholders in the policy networks of Estonia and Latvia is more likely to assure optimal compromises made in selection and implementation of forest policy instruments.

This relatively intensive intervention of the state in Lithuania may suppress and outweigh public participation in the forest policy network. It can be anticipated that the dominance of the state-funded organizations in the forest sector can cause negative consequences. It is generally thought that in the European countries with economies in transition during formulation of national forest policies, strategies, and action programs, more openness, transparency and participation is needed. The accountability and transparency in forest governance is also generally questioned (Herbst 2002). Therefore, on the national level we may expect that opinions of stakeholders (other than those state-funded) will not be heard. From an economic development perspective, deep intervention by the state in forest management and planning may cause a false feeling of security in forest policy networks. Large administrative expenses by the state enterprises and little profit to the state from forest management may reduce the need for and investment in development incentives.

Additionally, maintenance of the traditionally dominating state role in the forest sector also imposes traditional and conservative thinking onto modern forest management and planning. Douglass North has indicated in his famous book "Institutions, Institutional Change and Economic Development" that despite the fact that formal rules may change overnight as the result of political decisions, informal constraints embodied in customs, traditions, and codes of conduct are much more viable than the deliberate policies (North 1990). The representatives of the strong soviet-influenced administrative structures carry along the old-type-of-thinking. In general, in the post-socialist society it is quite common that "insiders" from the old ministries reorganize in order to establish new platforms for their individual survival (Carlsson 2000c).

However, the positive influences of the soviet forestry and system in general may also be observed. Long silvicultural traditions that prioritize environmental considerations are probably the main positive feature, which was inherited from the soviet forestry. In Lithuania, where the largest state intervention into the forest sector among the three Baltic States exists, it may be expected that the state control over forest management both in state and private forests will yield positive results. Having the extensive human and financial resources, Lithuania is relatively well positioned to ensure implementation of environmental considerations and relevant silvicultural principles.

Conclusions

This study presented information on qualitative and quantitative characteristics of forest policy networks in Estonia, Latvia, and Lithuania. The inventory and comparative analysis has indicated that even though groups of stakeholders participating in forest policy formation and implementation processes in three countries are generally similar, representation within individuals groups differs among Baltic States. The structure of policy networks is also remarkably different from that found in the Soviet forest sector.

If placed in the context of sustainability principles, location in economic-social-environmental gradient in the Baltic States may be related to the closeness to the soviet system. It was found that Estonian and Latvian forest decision-makers have chosen to make

radical changes in the administration of forest resources – liberalizing forest policies and state control in private forests, and at the same time reducing state expenditures for administration of forest resources. In this way, representation of stakeholders in policy networks seems to be more balanced. On the other hand, the Lithuanian forest sector, structurally and traditionally, remained the most conservative and closest to the soviet system – regulation in forest sector is relatively strict and state intervention in forest policy networks is much larger than in the other two countries.

However, in order to have a deeper understanding of the processes in forest policy networks of Estonia, Latvia, and Lithuania, application of more comprehensive theories and methods is necessary. Carlsson (2000b) suggested that if taken within Institutional Analysis and Development Framework, different policy network constructs could be understood as instances of collective action emanating from specific contexts. Each context may be understood in terms of specific incentive structures, norms, rules, and physical attributes that affect particular action arenas. By focusing on individual behavior we can not only understand how policy networks evolve and are structured, but also how these networks create specific outcomes in particular policy areas.

Therefore, we believe that this study has built a foundation for follow up research which will concentrate on studying the contexts in which individuals representing stakeholders of forest policy networks behave. Decision-making environment, including such factors as beliefs and attitudes of individuals, overall historical background, geographic location, national traditions and religion should be considered in order to acquire the full picture of policy networks and be able to anticipate the outcome of policymaking and implementation processes.

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COMPARISON OF FOREST LAWS AND NATIONAL FOREST MANAGEMENT SYSTEM IN FRANCE, JAPAN, AND USA

BY IKUO OTA

Abstract

Even though private forests dominate the area of total forestland in most of developed countries, national forests have been playing a big role in the forestry sector in such countries. Generally, the followings are the reality: (1) Forestry legislation and institutions are intimately related to national forest administration, (2) introduction of scientific forestry practices are usually brought by national forest management, and (3) significant amount of timber and other goods and services are provided through national forest system.

This paper first shows a rough picture of national forest in France, Japan, and USA. Then, it aims to compare legislative differences, institutional features, management philosophy, and performances for the public by national forest within these three countries.

Code of Forestry was revised in 2001 in France, and basic direction of forest policy was reestablished. Production side as well as environmental side was to be emphasized in this new direction. On the other hand, Japanese Basic Forest and Forestry Law amended in 2001 shifted toward more to the environmental side. USA does not have forestry law in federal level, but forest practice acts exist in some states. This is the biggest feature of forest legislature in USA among others.

French national forest was legally established in 1827, and has been managed by National Forest Office since 1966. Three objectives of national forest management are production, protection, and acceptance of people. Japanese national forest was formulated during the years between 1868 and 1897, and has been managed by Forestry Agency since then. Timber production and economic contribution to the government were the main objectives of national forest management for long years, but things are changing recent years. Generating money is no more the realistic objective of national forest because of international less competitiveness. Forest Reserve Act of 1891 originated National Forest System of the USA. Forest Service in Department of Agriculture of federal government has been managing national forest since 1905. Public participation for forest planning has been practiced since 1970s, and drastic environmental shift has happened in 1990s under the Clinton Administration.

Overall management performances are well, but forest degradation in some degree can be seen at national forests in three countries. Extensive clear-cutting in USA, insufficient forest practices due to lack of management expenditure in Japan, and extraordinary big storms and malfunction of National Forest Office in France were found to be the major reasons for such degradation.

Key words: Forest law, France, Japan, national forest, USA

Introduction

Publicly owned forest, especially national forest, would be the most appropriately managed forest in industrialized countries. During the long history of modernization, privately owned forests tend to be cleared for agricultural land and residential land, or changed into production oriented plantations. National forests, on the contrary usually have gotten less pressure from such development because of remoteness, long-term management horizon, protection by specific laws, and others. We can easily find beautiful forest scenery and healthy forest stands in national forest in most of the countries over the world.

Republic of France, Japan, and United State of America have national forest with more than 100 years tradition. National forests in these countries have been providing huge

contribution to the public in many ways; water head protection, soil protection, climate adjustment, recreation, aesthetics, as well as timber and non-timber production.

National forests occupy certain portion of total land area in these three countries: 2.7% in France, 20.2% in Japan, and 8.5% in USA. Even though central governments are not holding majority of the forests in the countries, national forests have been playing big roles to the forest sector in all three countries. The followings are the reasons for such situation: (1) Forestry related legislations and institutions are intimately related to national forest administration, (2) introduction of advanced scientific forestry practices are likely to be applied by national forest management in its early stage, and (3) significant amount of timber and other non-timber goods and services are provided from national forest.

This paper focuses on the differences among these three countries in forest legislations, institutions, and philosophy of national forest management.

Code of Forestry and national forest in France

Code of Forestry in France was established in 1827. It was amended many times until today, but the backbone of this 176 years old law is still firm. Protection of forest and its resources has been the main objective of the law since it's beginning. Promotion of timber production became another objective of the law later in the history. The law mainly deals with public forest under the forestry regime, which includes national and communal forests, and regulation of private forests is not strong.

The most recent amendment of the Code of Forestry was in 2001. Law of Orientation of the Forest is the name of the law that amends the Code of Forestry. In the middle of the worldwide movement of environmentally sound forest management, however, new French law insists production side of forestry rather strongly. Of course, it is environmentally sensitive enough, but such aspect is not very much emphasized like Japanese law, which will be mentioned in the next chapter.

Features of the new law are shown in the title of its five chapters as follows: (1) Policy development of sustainable and multifunctional forest management, (2) Promotion of development and competitiveness of forest sector, (3) Integration of forest policy into land management, (4) Reinforcement of protection of natural ecosystem, (5) Better organization of forestry related institutions and professional groups.

Reform of the National Forest Office, establishment of National Professional Center of Forest Owners, and creation of the Forest Territory Charter are the remarkable improvement under this new legislation. Decentralization of decision-making system and harmonization of forestry activities of public and private sector are the desirable direction of French forest policy today.

National forest in France was legally established in 1827 by the Code of Forestry. After the French Revolution in 1789, most of the land belonged to the royal family and aristocrats were taken by the nation. Basically, these forests became the national forest, and are nationally controlled under the forest regime with other communal forests that belong to local municipalities.

National forest used to be managed by a governmental department named Administration of Water and Forest. In 1966, National Forest Office (ONF), a state owned enterprise, was created and took in charge the role. ONF is an economically independent organization, and manages national forest, overseas nationally owned forests, and communal forests by contract base. Because of the storm damage in December 1999, financial status of ONF turned to be aggravated, but before that they could keep the balance of the books of account for many years.

One of the interesting characteristics of French national forest is its large inventory of quality hardwood trees. Total volume of harvest from national forest is composed around

50% of softwood and 50% of hardwood, but the revenue is 34% from softwood and 66% from hardwood. Table 1 shows the items of tree species in national forest timber sales. High quality oaks made one third of total revenue, which was about 1,500 million Francs, in 1998 (The author chose this year because the statistic in later years might have effected by storms in 1999).

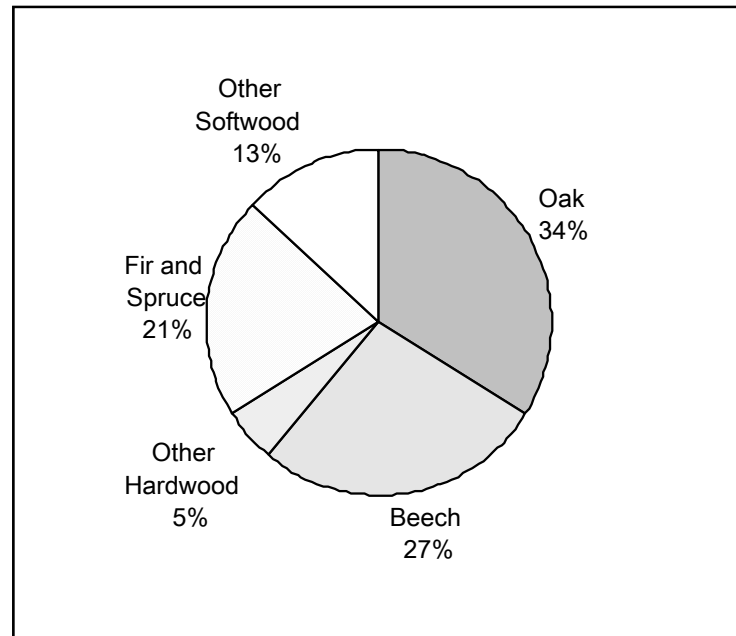


Figure 1. Items of tree species in national forest timber sales in France (1998)
Source: Office National des Foret (1998) Rapport Annuel

Three main objectives of national forest management in France are described as follows: (1) Production of various materials, (2) protection of forest, and (3) acceptance of people. Basic philosophy of French forest management is to manage every forest for demonstrating those three functions in the same stand at the same time. Well-managed old hardwood dominant mixed forest stand could be satisfied such ideal status. It is very interesting that French forestry is against zoning of forest stands by different functions, which is the main stream of forest management in Japan and USA.

Forest laws and national forest in Japan

Hundreds years of feudal era came to the end in 1868, and Japan became a constitutional monarchy nation. Modern concept of land ownership was introduced and every peace of land including forest in mountain must be registered. National and private forest today was established slowly during the last half of the 19th Century.

Forest Law in Japan was established in 1897. The objective of this law was clear; to protect forests from over development. That is because forest degradation, especially in private land, was in very bad situation at the time. Creation of the system of protected forests, and regulation of illegal forest practices were the main subjects of the law. During the World War II, the law was amended and forestry cooperatives were forced to supply large amount of timber from their member's forest.

After the War, Japan became a democratic nation where sovereignty rests with the people. Forest Law was fully amended in 1951. Nation-wide forest planning system, protected forest, and forestry cooperative system were the main subjects of the law. The part of forestry cooperatives became independent law (Forest Owners Association Law) in 1978.

Basic Forestry Law, which intended to express the direction of national forest policy, was created in 1964. Development of domestic forestry and improvement in income and social status of forestry related people had become two main objectives of forest policy in Japan since then. In 2001, this law was completely amended and renamed as Basic Forest and Forestry Law.

New basic law is very much environmental oriented to compare with the previous one. It is understandable under the shrinking situation of domestic forestry and rising wave of global environmental concern. However, the tone of new basic law is far from promoting forestry, even if emphasizing industrial side of forestry is not critically important for the public with considering actual situation today.

There are several laws related to national forest management, but details are determined by ministerial ordinances. National Forest Law of 1951 prescribed buying, selling, and leasing the national forest land. National Forest Management Ordinance is the major legislative basis for managing national forest. It was established in 1948, and revised a few times until today.

National forest is managed by Forestry Agency in Ministry of Agriculture, Forestry, and Fishery. National forest special account was established as an independent budget that dealt with the silviculture and production of national forest in 1947. The special account made huge amount of profit during 1950s and 1960s, but it turned into the red after 1975, and bankrupted in 1998 with some 3.8 trillion Yen (350 billion US\$) of debts.

After the drastic reform in 1998, Forestry Agency lost independent accounting system, combined and reduced management regions from 14 to 7 (including sub-regions), cut back on personnel, and further promotion of outside supply of forest practices. The agency is managing to survive the hardship today. Figure 2 shows the downward trend of timber production from national forest in the last 30 years.

National forest in Japan has been treated as a national property that is to contribute national treasury. Under the independent account system, Forestry Agency was behaving as the biggest forest owner in Japan who was actively producing timber for making money. In many of the remote mountainous area, timber production in national forest was a pulling power of the economy. Such national forest dependent communities have been suffering from depopulation with decrease of timber production, the strategy decided by Forestry Agency.

Forestry Agency gradually had cut back on employed forest workers for decades, and tried to shrink the size of budget to minimize deficit from silvicultural activities. This could be a typical behavior of private economy instead of the public sector, which is to maximize public benefit in total of its activity.

National forest management holds two specified objectives; (1) to demonstrate public benefit functions such as land protection, and (2) to produce forest products continuously, and one tacit objective; to contribute to the primary industry in the rural area where the forest exists. Although they have such public minded objectives, Forestry Agency in Japan looks as selfish as a private company.

National forest and federal legislation in U.S.A.

National Forest System of the United States was originated by Forest Reserve Act of 1891, which gave president an authority to designate forest reserves in public domain. This was the result of forest conservation movement in the late 19th Century, reacting rapid degradation of forest resources over the continent. Forest Service in Department of Agriculture took over all the national forests in 1905, and has been managing them since.

Management objectives of national forest are laid down by Organic Administration Act of 1897 and Multiple Use-Sustained Yield Act (MUSYA) of 1960. The objectives of managing national forest are clearly stated in MUSYA as follows: Outdoor recreation,

range, timber, watershed, and wildlife and fish. The act stated that it is not necessary to get greatest dollar return with realizing multiple use objectives. Wilderness has been considered as another objective after the passage of Wilderness Act of 1964. In addition, contribution to the local economy was stated in the Organic Administration Act.

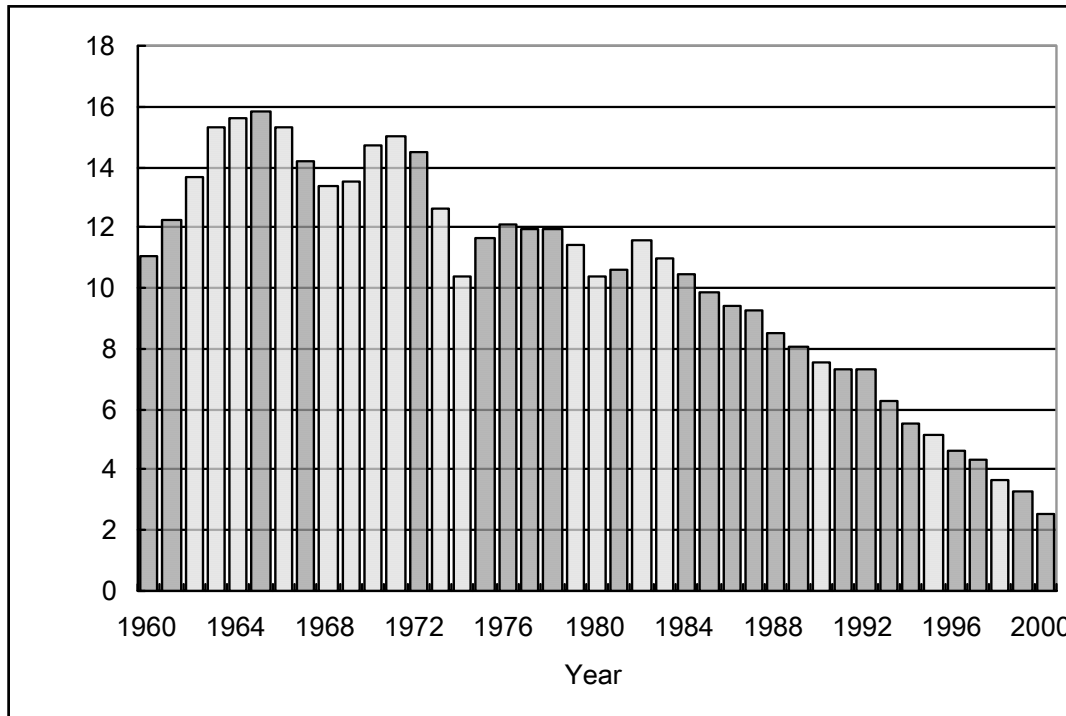


Figure 2. Trend of timber production volume from national forest in Japan (1960-2000)
 Source: Ministry of Agriculture, Forestry, and Fishery (each year) Report of wood demand and supply

To realize the idea of MUSYA, Forest Service introduced zoning system into the forest planning. Reason of adopting zoning system was to separate protection area from timberland was reasonable for efficient forest management. Zoning is still alive under the ecosystem management today.

Basic philosophy of national forest management in the United States is concentrated in the words of Gifford Pinchot, the first chief of the Forest Service; the greatest good for the greatest number for the longest time. Forest Service has been managing huge area of national forest with relatively small number of employees. One reason of such accomplishment is because of this clear and respectful philosophy that has been filtered into public foresters.

Accounting system of Forest Service is not independent from federal government. It is included totally in the federal budget. This is why Forest Service does not have to balance the books of its account annually. In their almost 100 years of history, income rarely did exceed expenditure. Efficiency is always the problem of in such public organization, but people in US seems to understand that satisfactory public forest management needs tax money.

Forest Service was reminded as one of the most popular and reliable public agent in the middle of 20th Century. However, they began to be attacked by environmental groups after 1960s. Protest against large size clear-cut and below cost timber sales problems were the typical examples. Intervention by the Congress by means of new legislations for national forest management became stronger because of such public opinion against the way of Forest Service. National Environmental Policy Act in 1970 and National Forest Management Act

of 1976 are the example of such legislation. Table 1 shows major federal legislation related to national forest.

Public participation for forest planning has been practiced since 1970s, and National Forest management Act of 1976 designed the precise procedures of public involvement into the forest planning of national forests. Forest Service adopted ecosystem management in 1992, after the long controversy around Northern Spotted Owl, a threatened bird living in a limited old growth forests in the Pacific Northwest. Under this new management strategy, timber production from national forest decreased drastically.

Table. 1: Major federal legislation related to national forest management in USA

1891	Forest Reserve Act
1897	Organic Administration Act
1911	Weeks Law
1924	Clarke-McNary Act
1930	Knutson-Vandenberg Act
1960	Multiple use-Sustained Yield Act
1964	Wilderness Act
1968	Wild and Scenic Rivers Act
1970	National Environmental Policy Act
1973	Endangered Species Act
1974	Forest and Rangeland Renewable Resources Planning Act
1976	National Forest Management Act

Source: Dana, S.T. and Fairfax, S.K. (1980) Forest and Range Policy
 USDA Forest Service (1993) The Principle Laws Relating to Forest Service Activities

However, there is no General Forest Law in USA. As its nature of the national system, United States has no federal legislation that regulates private forestry activities. There are many legislation about national forest and other nationally owned lands at federal level, but legislation which regulate private activities are under the submission of state governments. States with large forestry activities usually have their own regulative statutes, but no such tools for private forestry in other states.

For example, State of Oregon established Forest Practices Act in 1971, which has amended several times until now. This Act strictly regulates the activities in forests such as about road building, regeneration, riparian buffer zones, endangered species, and others. Washington, California, Massachusetts, Maine and some other states have similar kind of statutes.

Discussion

It is difficult to compare national forest system in different countries because condition of land, climate, vegetation, tree species, and forestry activities are much different. However, it is worth doing because the reason of existence of and basic needs for public forest must be common in the world today, especially in industrialized countries.

Table 2 summarizes the up to date statistics of national forest in three countries. Area of national forest in USA is one digit bigger than those of France and Japan. However, timber production volume in US national forest is almost as same as that in French national forest. US national forest used to be producing a lot more timber, more than 4 times as much as today in 1970s and 1980s, but decreased harvest drastically in 1990s. Number of employees in Japanese national forest is now smaller than that of French national forest. However, the

number of employees in Japanese national forest was over 80,000, and timber production was over 15.0 million m³ in the mid of 1960ies.

Table 2. Comparison of national forest system in France, Japan, and USA (2000)

	France	Japan	USA
Organization	National Forest Office	Forestry Agency	Forest Service
Account system	Independent	Not totally independent	Federal budget
Forest area	1.5 MM ha	7.6 MM ha	77.9 MM ha
	(4.5 MM ha in total)		
# of regions	18 to 10 (2002)	14 to 7 (1999)	9
# of employees	12,000	9,700	28,000 (Permanent)
			(39,500 in total)
Timber production	14.2 MM m ³ (1998)	2.5 MM m ³	14.4 MM m ³

Source: Ministry of Agriculture and Fishery (2000) Forests and the wood and timber industries.

Forestry Agency (2002) Forest and Forestry White paper.

USDA Forest Service (2002) Report of the Forest Service FY 2001.

Rapid decrease of timber production in Japanese national forest was caused by three factors: (1) Harvest natural stands too much during 1960s and early 1970s, (2) employed too much workers until 1965 without proper future prospect, (3) accumulating deficit since mid 1970s. To reduce annual expenditure, Forestry Agency decided to cut back on employees, but it produces another reason of further decrease of timber production.

Independent account system was the key of this vicious circle that Japanese national forest experienced. This system must be good when forestry activity is profitable, but otherwise economic restriction makes it difficult to continue a good forest management in the long run. French system has been working well for decades because they could keep the balance of economy.

National forests usually are located remote places and include mountainous areas. Environmental functions of such forest are important for the public. Regardless its management activity in total is economically profitable or not, national forest should be taken care of to provide its multiple functions for society. In that sense, state owned company or governmental enterprise would not be the best organizational system to be responsible for national forest.

However, Forest Service in USA, which operates national forest management by tax money, has the other kinds of problems. They are inefficiency of management and cozy relationship with timber industry. The same problems might happen in France and Japan, but they can be corrected in the competitive free market system. However, governmental agency without being directly exposed to the market system sometimes is hard to correct its behavior by itself. Large-scale clear-cut of old growth forests had been continued until recent years, even though environmental groups protested it since 1960s. It must be hard to accept outside opinions in short time for such a big public agency.

Objectives of managing national forests are not very different in these three countries. Three objectives in France; product, protect, and accept; are very easy to understand for everyone, and Japanese three objectives are similar. The difference is whether contribution to local economy is clearly stated or not. US objectives are more detailed but land protection is not included in it unlike the other two countries.

In industrialized countries, in which most of the people are living in modernized urban environment and have higher education, nationally owned forest must fulfill people's needs

for good natural environment. Timber production would not be the main needs for the public as the Japanese example shown in the Table 3. Here we can see the change of the opinion about what people want to expect for the forest. Expectation for timber production dropped rapidly from 55.1% in 1980 to 12.9% in 1999. However, environmental functions such as land protection and water holding were constantly highly expected and newly added functions like wildlife protection and climate change prevention also got high expectation.

Table 3. Result of opinion polls about expectation for forest functions in Japan
(Multiple-choice questionnaire: %)

Functions	1980	1989	1999
Land protection & flood control	61.5	68.1	56.3
Timber production	55.1	27.5	12.9
Water holding	51.4	53.8	41.4
Air purification & noise reduction	37.3	36.1	29.9
Recreation	27.2	15.2	15.5
Forest by-products	18.4	11.3	14.6
Outdoor education	-	16.8	23.9
Wildlife protection	-	41.3	25.5
Climate change prevention	-	-	39.1

Source: Statistic Bureau (1981, 1990, 2000) Opinion Poll Almanac

Forests with functions of environmental protection should be categorized in public goods by the definition of welfare economics. The people would naturally accept paying tax money for such public functions. On the other hand, if governmental corporation forgets to provide environmental functions and solely to seek economic profit from national forest, people would not accept the situation sooner or later.

US national forest has made a large shift toward environmental side in early 1990s. It resulted drastic decrease of timber production. On the other hand, French national forest has been targeting both production and environment even after the new legislation. Their immediate issue is to recover from the storm damage.

However, US national forest is contributing to the public by protecting wilderness and providing variety of forest recreational opportunities. Clear cutting or other forest practices which result degradation of forest ecosystem has reduced after introducing ecosystem management. The people also welcome it.

Japanese national forest had been working very hard to return the debt for decades. They could not afford to worry about the public opinion before 1998. It must be fair to say that national forest in Japan is not managed well to compare with those in France and USA.

Conclusions

National forest management systems in France, Japan, and USA are different but have respective uniqueness. One common feature is weak connection with private forestry sector. National forest is very big to compare with private forest holdings, so that their activities are allowed to be independent from other forest ownership.

Forest law (or Code of Forest) covers all the types of forest ownership including national forest in France and Japan. However, there is no such general forest law in the United States. Federal legislation regulates how to manage national forest in the United States, but

ministerial ordinances do the same role in Japan. This means there is more freedom in activities for Japanese Forestry Agency, because there is more room to decide the rules of national forest management by themselves without having intervention from the Diet.

Situation in Japanese national forest is the worse among three countries. Huge amount of deficit made Forestry Agency impoverished in these thirty years. On the other hand, French national forest, which has similar accounting system as Japanese used to be, has been operating well with small forest area but fewer employees. To compare with these two countries, US national forest has been more publicly accepted, or popular, even though having some protests. It seems that providing outdoors-recreational opportunity is more important for US national forest than other two countries.

Looking back the recent trend, people's need to good environment is increasing apparently. Publicly owned forest is expected to provide environmental function more and more in industrialized countries. National forest management is also going to be more people oriented from now on.

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GEO-SPATIAL ANALYSIS IN ENVIRONMENTAL POLICY EVALUATION: A CASE STUDY OF THE ILLINOIS FORESTRY DEVELOPMENT ACT

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AND RICHARD THURAU

Abstract

The goal of this paper was to examine forest legislation enacted in the Midwestern United States aimed at providing incentives for private land owners to sustainably manage their forests for both profit and public interest. Specifically, the study sought to explore, through geo-spatial analysis, the extent to which the Illinois Forestry Development Act (IFDA) has addressed environmental concerns, namely water quality, while simultaneously promoting the timber industry. The physical characteristics of land enrolled in IFDA programs, particularly those affecting non-market environmental values, were previously unknown. Results indicated that policy implementation in the form of enrollment efforts does target, to a limited extent, landowners whose ownership contain riparian buffer zones within polluted watersheds.

Introduction

The ongoing implementation of sustainable forest development principles in European countries during the last decade involved the whole range of changes in forest policy and related administrative arrangements (Cirelli 1999; Cirelli and Schmithuesen 2000; Schmithuesen 2000). As a result of the political and economic reforms of the 1990s, Central and Eastern European countries have largely adopted new forestry legislation. Similar, however less drastic, changes in forest laws took place in Western European countries as well. New forestry legislation attempts to incorporate increasing diversity of interests in the forest sector and to consider multi-sectoral connections. Therefore, forest policy implementation is consequently also becoming more dynamic and demanding.

While principles of sustainable forest management have been embraced by these new legislative initiatives, concern exists over legal constraints that may serve to discourage private forestry activities (Mekouar and Castelein, 2002). In the context of sustainable forest development, when ecological, economic and social functions of forests must be balanced, strict regulation, control and enforcement are not the priority options for facilitation of responsible forest management. Currently, there is an increasing understanding that the forest policy implementation process should have a better use of policy tools such as positive incentives and compensation. In the case of the Czech Republic Forest Act for example, Chytrý and Vasicek (2002) call for positive incentives (i.e., financial support) to encourage a more balanced relationship between government support of forest management and restrictions imposed on forest owners. Another study by Lazdinis *et al.* (2003), however, showed that market intervention policy tools such as compensation and incentives are relatively poorly used in the Baltic states.

Therefore, it can be argued that presently there is a need to learn about the working mechanisms for practical implementation of the principles of sustainable forest development. We must find successfully functioning cases of incentives or compensation in order to assess the affect the new policies may have on the management of forests and forested landscapes. The goal of this paper was to examine one of such examples - forest legislation enacted in the Midwestern United States. This legislation is aimed at providing incentives for private landowners to sustainably manage their forests for both profit and public interest.

Illinois Forestry Development Act

Enacted in 1983, the Illinois Forestry Development Act (IFDA, 1983) was established with the objective of managing forests in the State of Illinois for environmental, social and economic benefits, as well as for timber production. The IFDA promotes forest management through economic incentives to Illinois landowners who establish forest management plans. To qualify for the IFDA cost share program, a private forest landowner must develop a management plan for timber production on land that is at least 2 hectares in size, at least 30.4 meters wide, and void of any permanent buildings. After the land is enrolled in the program it must remain in forest cover for a period of 10 years or until commercial harvest. The management plan must include a description of the land, the type of timber to be planted or grown, a harvest schedule, estimation of costs, soil and water conservation goals, wildlife habitat implications, and management practice description. The Illinois Department of Natural Resources, which will assist in plan revisions, must then approve the plan.

The management plan requires that wildlife concerns must be taken into consideration in the implementation of silvicultural practices (IFDA, 1990). Under provisions of the act, wildlife management must at a minimum, maintain all components in the forest such as ground cover, shrubs, and trees. The IFDA also specifies that practices aimed at enhancing forest wildlife populations shall address habitats that are limiting for wildlife populations and provide for vertical diversity.

Up to 75% of the costs of planting and management can be reimbursed to the landowner (IFDA, 1998). Specific hourly rates for labor are specified as well as maximum payment amounts for planting, thinning, cutting, and other management activities. Importantly, the Act specifies that the cost share program is a reimbursement program and that advance payments are not possible. See Figure 1 for a summary of the silviculture/management, and reforestation/afforestation cost share provisions as well as additional incentives. The management plan also provides directives for reducing tree damage resulting from wildlife. Specified options include hunting, providing alternative habitats, planting unfavorable wildlife species, cessation of mowing, planting of companion species, tree shelters, electric fencing, repellants, and bud or growing point protectors.

The IFDA is also designed to integrate with other state and federal assistance programs to provide maximum financial support for private forest landowners. State-employed foresters within the Illinois Department of Natural Resources coordinate activities with the United States Department of Agriculture Soil and Conservation Service, resulting in 80% of IFDA-enrolled lands also being enrolled in the Federal Conservation Reserve Program.

A limited amount of funding for the cost share program originates from Illinois General Assembly (state government) appropriations made to the Department of Natural Resources. Most importantly, the Act authorizes the Illinois Forestry Development Fund. This fund is generated from a 4% tax on all timber harvests. The Fund also supports the Illinois Forestry Development Council whose mission is to study and evaluate the forestry resources and forestry industry of the State.

Importance of Forested Riparian Buffer Zones

Throughout the Midwestern United States, agriculture has been and continues to be the predominant land use. Negative relationships between land use and stream water quality are often evident in agriculturally impacted watersheds. Degradation of stream habitat and water quality, induced by row crop farming practices, is problems facing natural resource managers.

Agriculture is considered the major contributor to stream degradation in the United States, having adverse effects on in-stream habitats and water quality (USEPA, 1994). Furthermore, nutrient loading and sediment deposition have been identified as the water quality problems of greatest concern (Chesters and Schierow, 1985). An agriculturally impacted stream may undergo a number of changes in its structure, chemistry, and in-stream habitat. Some of these changes include, but are not limited to stream morphology, sedimentation, and increased nutrient levels. Furthermore, off-site soil erosion damages have been estimated to be in the range of 2 billion dollars per year, significantly impacting recreation, water storage capacity, biota of surface waters, flood damage, and water treatment (Clark, 1985).

Figure 1. Landowner Incentives (US\$) provided through the Illinois Forestry Development Act

- Property tax relief (land is assessed at 1/6 its agricultural value)
- Harvest fee rebate
- FDA Cost Share Program
 - Plan Preparation
 - Forest management plans – up to \$17/ha
 - Tree planting plans – up to \$10/ ha
 - District Forester must approve plans
 - Tree Planting
 - 1075 minimum number of trees per hectare
 - The average spacing is about 3m X 3m
 - Cost shares up to \$235/ha for state trees (provided free) or up to \$692/ha for purchased trees
 - Timber Stand Improvement
 - Option to use cut trees for firewood & wildlife habitat
 - Cost share up to \$111/ha
 - Pruning
 - Best trees are pruned to at least 5m
 - Cost share up to \$125/ha
 - Reducing Wildlife Damage
 - Tree shelters – up to \$370/ha
 - Electric fencing – up to \$1.25/meter
 - Repellants – up to \$37/ha
 - Bud protectors - \$12/ha
 - Site Preparation for Natural Regeneration
 - Light disking, cutting, herbicides, burning
 - Cost share limits from \$74 to \$445/h

Over the past two decades, studies have been conducted to determine the amount of nutrients and sediment lost in run-off, and how these non-point source pollutants can be minimized (Lowrance et al., 1983; Peterjohn; Correll, 1984; Pinay and Decamps, 1988; Muscutt et al., 1993; Edwards, 1996). One tool that has become widely accepted as a defense against excess nutrients and sedimentation is the use of vegetated riparian buffer zones.

A forested riparian zone can effectively filter lateral overland flow when it enters the buffer as sheet flow draining from a small field with minimal slope, 5% or less (Peterjohn and Correll, 1984). In addition several studies have shown that riparian zones can decrease the nutrient levels of groundwater entering the stream (Jacobs and Gilliam, 1985; Cooper 1990; Haycock and Pinay, 1993; Jordan et al. 1993). The effectiveness of this Riparian Forest Buffer's at the field scale has been well documented (Groffman *et al.*, 1991; Haycock and Pinay, 1993; Addy *et al.*, 1999). However, Herron and Hairsine (1998) suggest that land

management initiatives need to be directed at the catchments as a whole if riparian buffers of realistic widths are to be effective tools in reducing nonpoint source pollutants.

Study Area

Across a five county region of southern Illinois, 375 management plans have been approved and over 6,000 hectares of land have been voluntarily enrolled in the Illinois Forestry Development Act Program since 1985. For this study, two of these counties, Hardin and Pope, comprise the study area. This 143,830-hectare study area was chosen because of its regional ecological importance and the availability of GIS data sets. For Hardin and Pope counties, forest cover is 62% and 66% respectively with agricultural production comprising 34% and 30% of the counties. Average slope in Hardin County is 9.68% with a range from 0% to 88.55%, while Pope averages 10.21% with a range from 0% to 219.37%. Nine watersheds have a boundary within Hardin county, and of those, two are considered impacted (degraded by agricultural non-point source pollution) by the Illinois Environmental Protection Agency (IEPA, 1998). Pope County contains portions of 14 watersheds, of which six are considered impacted.

Methodological Approach and Data Development

The specific study objectives were to answer the following research questions: (1) to what extent are lands enrolled within impacted watersheds that cause a majority of water quality problems within the study area, (2) are IFDA tree plantings prevalent within riparian zones, and (3) are the IFDA lands found in more erodable lands? ArcGIS 8 and Arcview 3.2 (ESRI, Redlands California) were used to conduct all spatial analyses.

Base geo-referenced data layers used in the analysis were obtained from the U.S. Forest Service, Illinois Department of Natural Resources, and the Illinois Environmental Protection Agency in digital form. All data layers were projected in universal transverse mercator, North American datum 1983, and zone 16. Data layer accuracy was measured and verified by overlaying and examining digital satellite imagery, i.e., orthoquadrant quadrangles (DOQQ's), at a raster resolution of one square meter.

Illinois-specific data was acquired from the Illinois Natural Resources Geospatial Data Clearinghouse and provided the framework for basic analysis within each county. Polygon layers of the county boundaries were used to outline the study area. Streams and their associated riparian zones were identified utilizing the Illinois streams data layer. Municipalities, state parks, and the Shawnee National Forest ownership coverage were combined to create a layer depicting total lands ineligible for IFDA enrollment.

Land cover data obtained from the United States Geological Survey (USGS) were utilized to analyze land uses within and surrounding the IFDA lands and impacted streams, as well as within impacted watersheds. The file consists of 30x30 meter raster cells of nearly 30 different values, with each value representing a different land-use. Using ESRI Spatial Analyst, percent slope was derived from a USGS Digital Elevation Model. Percent slope was assumed to represent the primary indicator of erodability within the study area.

Illinois Environmental Protection Agency (IEPA) 303(d) stream polygons and watershed boundaries for the state of Illinois were constructed by the IEPA Bureau of Water GIS. 303(d) stream layers were used in combination with the watersheds and land-use data to estimate the IFDA's potential impact on water quality. The Illinois Department of Natural Resources constructed all data originating from the IEPA.

Paper maps of IFDA-enrolled lands were digitized to create three data files consisting of property boundaries, unit boundaries and tree plantings. The property boundary file delineates the total land holdings of private forest owners who have some portion of their land enrolled in the IFDA. The unit boundary file delineates actual lands enrolled in the IFDA.

The tree plantings coverage consists of lands that have been enrolled specifically in the IFDA tree-planting program.

Analysis

Total acreage for IFDA holdings, eligible lands, and impacted watersheds were calculated to determine the extent to which IFDA enrolled lands occurred in impacted watersheds.

Determination of whether IFDA tree plantings occurred within riparian zones involved several additional steps. Streams within the study area were buffered to 60 meters (each side of the stream for a total of 120 meters). IFDA tree plantings and buffered stream data layers were converted to raster format and combined to create a map layer consisting of tree plantings within 60 meters of streams.

The derived percent slope layer for the study area was utilized in examining the extent to which IFDA lands occurred on highly erodible lands. Percent slope was first classified into four categories for all IFDA eligible lands: (1) 0-2% slope, (2) 2-5% slope, (3) 5-10% slope, and (4) greater than 10% slope. Subsequently, raster layers of the IFDA holdings were multiplied by the slope layer, making it possible to categorize the holdings by percent slope. Land areas reported on a total and percentage basis were derived from these values and compared to determine erodibility of IFDA lands.

Results

Lands within a 60 meter buffer of all streams within the study area of Pope and Hardin counties in Southern Illinois were assessed for the following three items: their eligibility for IFDA enrollment, the presence of enrolled lands, and current land uses. The eligibility of privately owned lands within 60 meters of a stream was estimated to consist of 10,657 hectares, or 61 percent of the total area classified as riparian buffer zone. IFDA-eligible lands within the 60-meter riparian buffer were found to be comprised of 69 percent forestland (7,354 hectares), and 23 percent (2,451 hectares) agricultural land. Since voluntary enrollment in the IFDA cost share program commenced, 5 percent (607 hectares) of these eligible lands have been enrolled. Of those enrolled lands, 28 percent (172 hectares) have received tree plantings, thus converting marginal agricultural land to forest cover. The high percentage of streams being protected by riparian forest is an encouraging statistic for water quality benefits in the study area. However, agriculture still encompasses nearly a quarter of the eligible lands.

Streams identified by the IEPA as 303(d) streams include those assessed as threatened or in partial attainment with national water quality standards (IEPA 1998). Agricultural non-point source pollution is often cited as the primary cause of water quality impairment within the study area. An analysis of land use within the entire impaired watersheds revealed that 34 percent (29,856 hectares) of the land in the impacted watersheds was used for agricultural production and 62 percent (54,271 hectares) was forested. In addition, slopes were found to be very high in these watersheds with slope classes (0-2%; 2-5%; 5-10%; >10%) reported at 17, 22, 30, and 31 respectively. Land eligible for the IFDA program within the 303(d) watersheds was 63 percent (55,217 hectares) of the total watershed area. Only 3 percent (1,991 hectares) has been enrolled into the program since its implementation.

The land cover associated with eligible IFDA land within the 60 meter buffer of 303(d) streams showed that 59 percent (476 hectares) of the land is covered by forest and 31 percent (249 hectares) in agriculture. Much of the degradation of water quality in these streams is attributable to those remaining agricultural lands. Unfortunately, results indicate that only 14 hectares of trees have been planted within the 60-meter buffer of 303(d) streams across the entire study area.

Conclusions

Decreasing dependence on public lands for the supply of timber and a shift in the focus of timber procurement from the western U.S. to the Midwest and South may signal a significant income opportunity for private forest landowners in Illinois. Those landowners with propensity to manage and harvest timber will have the greatest chance of benefiting from increased demand for privately owned timber. The Illinois Forestry development Act was enacted to enhance development of the forest industry of the state through the provision of financial incentives that encourage land owners to produce timber in a sustainable manner, consistent with broader societal and environmental goals.

The Illinois Forestry Development Act provides an example of voluntary, incentive based forest legislation aimed at improving participation of private landowners in sustainable forest management. There is little doubt that improvements have been realized from the enrollment of thousands of hectares across the state. However, results of this study show that environmentally sensitive areas are being targeted to a limited extent. In two counties alone, 607 hectares of riparian buffer strips and 1,991 hectares of land within critical watersheds have been enrolled in the first 15 years of the program. However, program funding is severely limiting opportunities for program expansion. The funding constraints are evident by a typical waiting period of one-year program applicants to receive assistance with plan development from a state-employed forester. At present, no additional funding mechanisms are under consideration.

The example of IFDA and more importantly, Forestry Development Fund initiated on behalf of IFDA, provides one of the ways of how sustainable forest development can be facilitated by using positive incentives in implementation of forest policy. Despite the fact, that so far the direct link between objectives of the act and situation in the field (e.g. conservation of watersheds) has been marginal, we can argue, that the Forestry Development Fund is a success story. The establishment and successful functioning of the Forestry Development Fund (despite the funding constraints) becomes even more interesting case study, considering the fact that similar types of “forest funds” have been abolished in some of the Eastern European countries.

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ROLE OF LANDOWNERS IN NEW FOREST LEGISLATION

BY FRANZ SCHMITHÜSEN

Abstract

Approximately 50% of the forests in Western Europe are privately owned, less than 30% areas are state forests and around 20% are communal forestlands. In Central and Eastern Europe, the restitution of ownership rights leads to a considerable increase of private and communal forest holdings. In the Community of Independent States (CIS Countries), it remains to be seen to what extent restitution and privatisation processes will change the existing public ownership pattern. Based on the constitutional right of ownership it is primarily the responsibility of the landowners to decide to what extent they are able and willing to provide goods and services. They are not obliged to carry incremental costs without compensation for forestry benefits resulting from demands of user groups and the public, which have been incorporated into new forest legislation. Forest policy and legislation have to regulate the financial dimensions of costs and benefits in sustainable resources management. Legal provisions that balance rights and responsibilities in private and public land management are indispensable in order to generate an optimal combination of benefits from sustainable forest management.

Key words: Land Tenure, Forests Ownership, Forest Law, Forestry Investment, Multiple Use Forest Management.

Private and Public Ownership of Forests

The process of adapting forest legislation to new social and economic developments has gained momentum since the 1990s (Cirelli and Schmithüsen 2000). Forestry laws have been revised in many countries in Western European (Schmithüsen et al. 2000). Major Law revisions have also occurred in all Central and Eastern European countries. With transition to an open civil society, democratic institutions and a market economy, these countries have developed a new legal framework for addressing agriculture and forestry, nature conservation and environmental protection (Mekouar and Castelein 2002; Le Master et al. 2003).

The continuous adaptation and innovation in the forest laws of most European countries, which we have experienced during the last years, are induced by fundamental changes in society. Society's expectations are high and extend to new issues, in particular to environment protection and sustainable development. New demands, such as the use of forests as carbon sinks, illustrate that the social meaning of forests is a dynamic one. The public wants more information on economic and social issues and more participation in policy formulation and implementation. The distinction between private enterprise and public administration is increasingly permeable. The private sector has to deal with the incorporation of external effects in management and public authorities are working with models from business administration.

The ongoing changes in forest law determine profoundly forest management of private and public landowners and influence profoundly the behaviour of citizens, land users and land managers. They establish complex policy and legal frameworks, which combine cross-sector regulations and legal instruments that are adopted by national and sub-national governments. In addition, legal instruments adopted by the international community, at the Pan-European level and by the European Union play an important role.

Forests are legally defined and spatially delimited property. Forestlands and forest stands are production factors, which are, within the limits set by legislation, at the free disposal of their owners. In accordance with the constitutionally secured guarantee of ownership and with the principles of a market economy the rights to use forests and the

responsibility for forest protection and management is vested primarily with the land managers. At national level, there are remarkable differences with regard to ownership and forest usage rights. In many countries, private forests dominate owned either by farmers and small-scale tenants or by industrial enterprises of the forest and wood processing sector. Communal forests owned by cities and rural communities are a significant feature in some countries. In others a considerable part of the forests are owned by the central state or by sub-national state entities.

Criteria for determining the legal status of private and public forest tenure are usually set by land laws. The specific requirements for utilization and management are regulated by the prevailing forest legislation. They are usually different for private and public forests with a clear tendency to impose less restrictions on private forest owners. The distinction between private and public forest property is of importance as the goals of the land owners are not necessarily the same. Private forest owners have a strong interest to earn income from wood production and timber sales, and to use their property for a wide range of personal objectives. Most public forest owners also manage their forest for financial earnings. In addition, they have frequently other important management objectives such as to protect public infrastructure and to provide recreation opportunities for their citizens.

The actual repartition of private and public forest tenure is the result of long standing social, political and economic processes. It was during the 19th century that ownership rights in Europe have been determined by land delimitation, mapping and inscription in public land registers. Since then ownership, rights have changed considerably due to political events as well as a result of sales of forest lands, afforestation of marginal agricultural land, and of forest clearings mainly in urban and peri-urban areas. Table 1 shows for Europe as a whole the actual variety in land tenure distribution of forest and other wooded land. Due to the large surface of Russian forests, public land ownership prevails. The table also provides an overview on the distribution of forestland holdings where the number individual private units dominates.

Distribution of forest tenure is more differentiated and dynamic as the overall picture suggests if we distinguish different parts of Europe. In the countries situated in Western Europe, more than 50% of the forests are privately owned. Less than 30% areas are state forests, and around 20% are communal forests. In most of these countries, private and public forest tenures coexist leading to varying combinations of private forests, communal forest and state forest. In the countries in transition to market economies in Central and Eastern Europe the restitution of private ownership is still in full swing and leads actually to a considerable increase of private and communal forest holdings. In the Community of Independent States (CIS Countries) and in particular in Russia the forests are at present exclusively classified as public lands. However, it remains open to what extent restitution and privatisation decisions will further modify the presently existing official landownership classification.

Rights and Responsibilities of Forest Owners

The principle of sustainable development has become the political benchmark for judging to what extent new and revised forest laws contribute to economic and social welfare and to a safe environment worthwhile for present and future generations. The essential content of sustainable development is that economic growth, social integration and caring for a liveable environment are on an equal footing. They influence each other, cannot be substituted for and are requirements for social progress and common advancement of mankind.

Table 1: Ownership and Number of Holdings of Forest and Other Wooded Land (UN-ECE/FAO 2000, page 70)

	Reference Period	Area of Forest and Other Wooded Land Ownership (1.000 ha)		Number of Holdings	
		Public	Private	Public	Private
Albania	2001	1.019	11	36	n/a
Austria	1992-1996	712	3.212	170.548	
Belarus	1997	8.936	0	1.971	0
Belgium	2000	301	393	877	155.110
Bosnia & Herzegovina	1995	2.125	584		
Bulgaria	1995	3.903		177	0
Croatia	1996	1.651	454	672	
Cyprus	1999	157	229	403	
Czech Republic	1996	2.212	418	4.566	137.260
Denmark	2000	188	391	360	26.246
Estonia	1996	1.978	184	180	17.000
Finland	1991-2000	6.491	16.391		447.104
France	1995-1999	4.228	12.761	15.926	3.495.000
Georgia	1995	2.988	0		
Germany	1987	5.762	4.978	13.040	349.361
Greece	1992	5.331	1.182	2.190	1.265
Hungary	2001	1.116	757	912	53.636
Iceland	1985	39	91		
Ireland	2001	397	268	152	21.386
Italy	1995	3.687	7.155	2.241	815.586
Latvia	1997	1.678	1.317	575	117.645
Liechtenstein	1995	6.9	0.5	15	584
Lithuania	2001	1.513	606	53	164.000
Luxembourg	1997	41	47	295	13.785
Malta	1996	0.35	0	21	0
Moldova, Republic of	1997	355	0		
Netherlands	1995	173	166	2.558	28.870
Norway	1989	2.936	9.064	1.302	171.079
Poland	1997-2001	7.518	1.524	461	843.802
Portugal	1995	258	3.091	1.140	409.524
Romania	1997	6.320	360		
Russian Federation	1998	881.974	0	> 2000	0
Slovak Republic	2001	1.047	959	578	40.035
Slovenia	2001	350	844	251	300.000
Spain	1985-1995	5.608	20.376	8.718	661.992
Sweden	1998-2001	6.175	24.385	13.557	260.386
Switzerland	1996	878	326	3.503	257.700
Turkey	1999	20.745	18	1.623	152
Ukraine	1996	9.494	0	10.515	0
United Kingdom	1995-1999	1.030	1.741	546	106.000
Total		1.001.321	114.284	91.414	8.894.508

As a consequence the goals of new forest laws are today more diversified and comprehensive. They refer to a wide range of private and public goods and values and acknowledge the equal importance of production and conservation. Forest law objectives are more and more incremental and refer to the multiple role of forests as an economic resource and an important part of environment. Increasingly they address alternative management strategies for a variety of ecosystems, the need to maintain biodiversity and the development potential of forestry in rural and urban areas.

Modern forest policies and laws establish a framework addressing all categories of ownership as well as the relevant user groups. They define management rights and responsibilities of the landowners, rights and obligations of immediate beneficiaries as well as competences of public entities to set general conditions in order to utilize and increase the forest resources potential. Increasingly they promote and provide a formal basis for joint management arrangements.

In a general way, the overall target of new forest policies and legislation is to protect forests as a renewable resource base by taking into account their full economic, social and environmental value (Figure 1).

- Protection regulations refer to environment protection and maintaining biodiversity, to nature and landscape conservation, and to the preservation of cultural and spiritual values associated with trees and forests.
- Land-use regulations provide for zoning of forest land, control of forest clearing, protection of a permanent forest estate, and for the establishment of new forest resources through afforestation.
- Utilisation and management regulations establish rules for utilising forest resources in a sustainable manner by acknowledging the rights of forest owners to manage their property according to their own objectives as well as their responsibilities to consider determined interests of third parties and of the public.

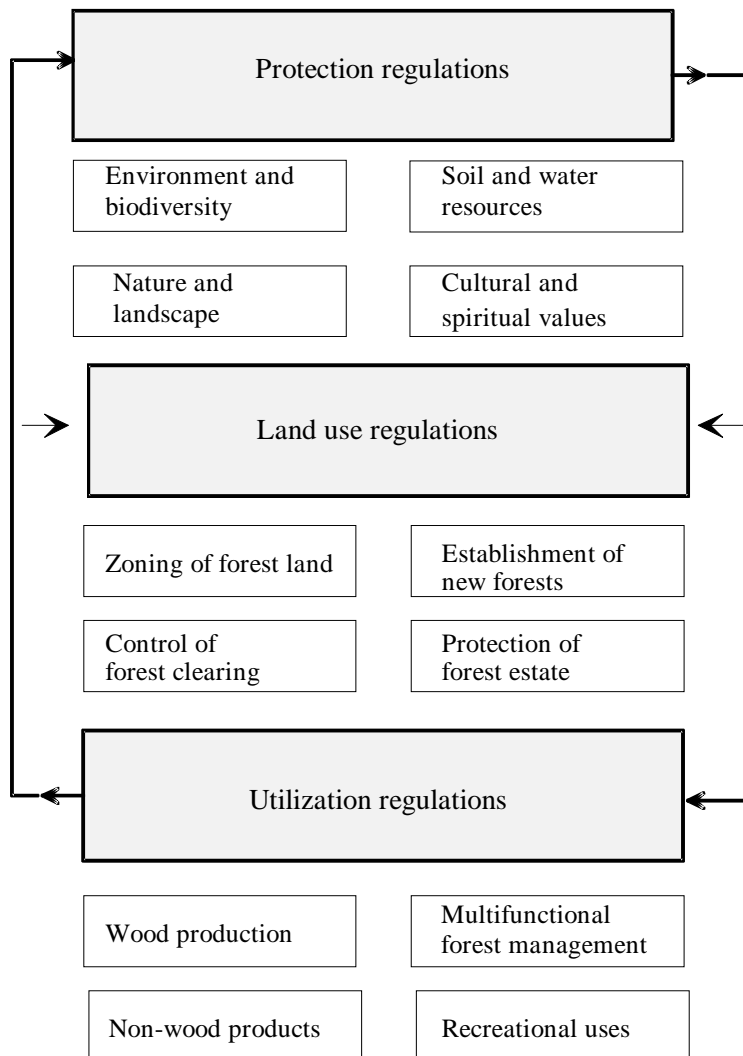
The evolving political framework of natural resources management raises the question to what extent forest owners are able and may be obliged to face increasing demands of society and incremental regulations of the state. It is thus important to look at ownership rights and at the possibilities of landowners to respond to public demands in forest management. Issues to be considered are, for instance, ownership status of forests; rights and responsibilities of forest owners; provision of goods and services for the public; and new forest management strategies. It is important to state the following principles:

- Private and public landowners are key actors in natural resources utilization.
- The owners have constitutionally secured rights and are primarily responsible to make decisions in land management.
- Within the limits set by legislation they may use forest lands and forest stands as production factors in order to generate economic benefits and financial income.
- It is up to the private and public forest owners to determine which products and services are to be delivered to the existing markets or made available to the community as a whole.

One of the important tasks of public regulations is to determine and protect forest owners' rights and their interests to draw material and financial benefits in using and managing their property. The lawmaker has to consider the fact that sustainable wood production is geared by signals from markets and determined by considerations on economic profitability. The determination of forest owner rights and responsibilities needs a clear understanding of relevant production goals for which markets exist or can be developed. The same is true with regard to the cost efficiency of delivered market products. It is fundamental

to acknowledge the attitudes and preferences of forest owners in designing effective public regulations for sustainable forest management (Figure 2).

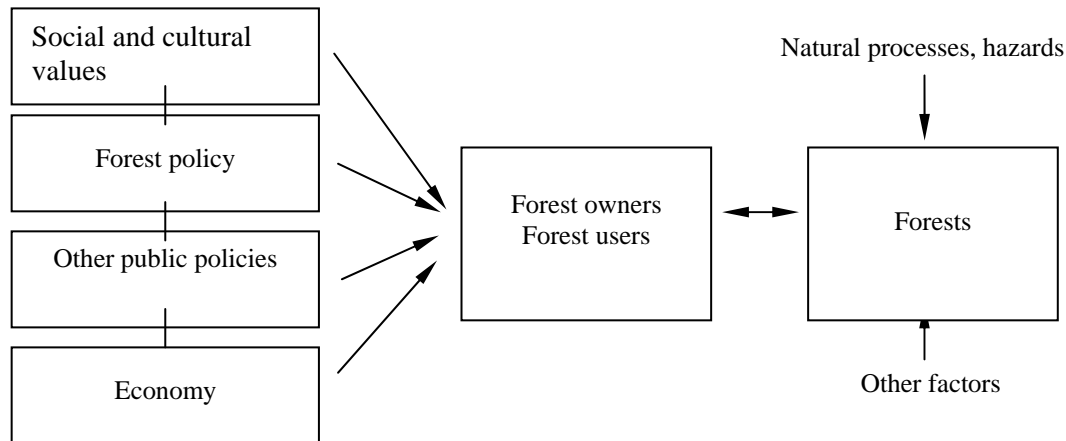
Figure 1: Forest Laws Regulating Protection, Land use and Utilisation



Modern forest policies and laws are instrumental in generating a combination of private and public benefits. They address a large range of forestry outputs and services. And one has to acknowledge that new laws and regulations have frequently a tendency to place additional responsibilities on forest owners. Some of them may lead to additional costs, to restrictions in production, or to a reduction of market income. That is why a new approach in regulating the rights and responsibilities of forest owners is required. Designing effective forest legislation means in fact to find realistic balances between private and public interests in forest management practices. It means to respect the principle, that the provision of public goods and services must be financed with public financial resources. This is of particular relevance since the situation of forest owner's changes rapidly as additional demands from external user groups and the public arise and are gradually incorporated into new forest legislation. There are limits to such developments that have to be qualified in accordance with

the constitutional rights of ownership. In particular, private landowners are not in a position to carry the incremental costs of external forestry benefits without compensation.

Figure 2: Framework Determining the Behaviour of Forest Owners and Users



Source: Schmithüsen, Bisang and Zimmermann, 2001

As a consequence new and amended policies and laws should favour collaborative forest management systems as land-use strategies that are capable of functioning among divergent social interests and local conditions. This implies foremost:

- Decision-making processes involving forest owners, the principal users and environmental groups on an equal footing;
- New balances between private and public interests and the elaboration of workable arrangements for landowners facing public demands;
- A shift from governmental and hierarchical regulatory systems to negotiation, public process steering and joint management responsibilities;
- Realistic financial arrangements involving market proceeds, public funding and contributions from private user and interest groups to provide multiple forestry outputs.

Close-to-nature forestry is another land management strategy that is consistent with the principle of sustainable development and contributes to maintain biodiversity, variety of ecosystems and diversified landscapes. It favours flexible and long-term production cycles, offers attractive areas for recreation and leisure activities, and leaves options for future uses and developments. In relying on natural site factors, close to nature forestry combines more consistently than other management practices economic necessities with multiple social and environmental requirements.

One aspect, which needs particular attention, is to avoid or abolish unnecessary regulations, which are cumbersome for forest owners. They hinder sustainable forest development by increasing costs and creating undesirable incentives. Constraints result from bureaucratic procedures that increase transaction costs of management activities without producing corresponding public benefits. Legislation should clearly determine which agency has the power to make certain decisions. If this is not the case a key government stakeholder whose action is critical to the success of a particular strategy might find its authority to undertake that action open to challenge. Where the authority is fragmented among different sub-agencies, which do not function well together, governmental action, is again sub-optimal.

An uncoordinated series of laws and regulations may authorise inspections of the same business, resulting in repeated and, in the end, harassing control.

Investment in Forest Resources Management

Sustainable management practices require re-investment and new investments to maintain and increase productivity of the available resources potential. New directions in policy and law can only be effectively implemented if they are supported by a rational repartition of private and public investment. The key issues are to determine:

- Outputs and services requiring public investment;
- Categories of private and public investments;
- Profiles and objectives of investors;
- Possible combinations of private and public financial resources.

Developing the potential of the rural space means today foremost, to facilitate economic and social interactions between landowners and land-users. Policies and laws have to be concerned with the financing of multiple outputs and services. They have to determine frame conditions for financial transactions between landowners, immediate beneficiaries and public entities. Cost sharing as commensurate with benefits that accrue to different parties is an indispensable prerequisite for the functioning of multifunctional forest management that provides multiple goods and services to private users and to the community. Where public interests are at stake, governmental intervention has to rely on compensatory payments and financial incentives. This is the case, for instance, for forestry measures protecting public infrastructure in mountain regions, for urban forest management and for measures promoting biodiversity.

Private and public investments in the forest sector have been undertaken for a long time. What have changed over time are the management objectives and the dimensions of investment needs. Investments are needed for the modernisation of forestry and forest industries as an asset in rural areas providing employment, marketable products, and income to farmers and villagers. Contractual arrangements between national governments and regional entities are of particular interest. The European Union focusing increasingly on an integrated approach for investments in rural areas plays an important role. An increase of private and public investment is necessary in order to improve efficiency and international competitiveness in wood production. This refers to the modernisation of wood supply structures, to a reduction of logging and transport costs, and to the establishment of more efficient marketing circuits. Public investments in research, professional education as well as managerial and technical training are other important measures in order to improve international competitiveness.

A considerable amount of public investment is needed in order to satisfy growing and multiple demands of society, which cannot be financed from, market proceeds. Typical examples are:

- Large investments for the regeneration of protection forests and avalanche control in the Alps;
- Investments for satisfying the demands for the protection against forest fires in Mediterranean region;
- Investments for maintaining forests and open green spaces within and around the cities;
- Investments for maintaining biodiversity, nature protection and management of natural landscapes.

Different investors have different strategies and expectations. Looking at the changing and diversified picture, the following issues need particular attention:

- Financial investments from private sources must show a proven profitability based on investment calculations. Social investments from public sources need proven benefits which are assessed in quantitative and qualitative terms.
- Social benefits that cannot be financed from market proceeds, need investments from those that benefit directly from them. Private user groups and local public entities play an important role in providing financial compensations for additional costs of proven additional benefit.
- If benefits from forests accrue to the community as a whole the clients of non-marketable forest services are citizens and communities. They have to decide which benefits they want to have and which public investments they are ready to make. This implies political decisions at all level of government.
- Economic valuation of non-monetary goods provides valuable information for public investment decisions. At least as important is to give clear indications on the level of the necessary investment volume and the resulting maintenance costs. Of equal importance is the prove that multifunctional and sustainable forest management undertaken in a cost effective manner.
- Investors such as private forest owners and the wood processing industry remain the back-bone of the European forest sector. In addition there is a whole range of public investors at different levels of government which gain importance in forest management. In short one has to look at the whole range of sources for finance and investments.

Financial means in managing the natural resource base derive from a variety of sources (Schmithüsen 2000). Significant elements are (Figure 3):

- Investments and financial contributions from the landowners;
- Proceeds from market sales of goods and services;
- Financial contributions and compensations from private user groups and local public entities;
- Proceeds from incentives and compensations from national governments and sub-national authorities;
- Proceeds from supranational and international institutions and organisations.

It is important that public policies and legislation deal with the financial dimensions of supplying private and public goods in sustainable resources management. They have to facilitate the sharing of financial commitments consistent with the economic realities of multiple uses. Instruments that favour an adequate transfer of resources commensurate with the tasks and responsibilities in land management are indispensable in order to generate an optimal combination of private and public benefits.

Conclusions

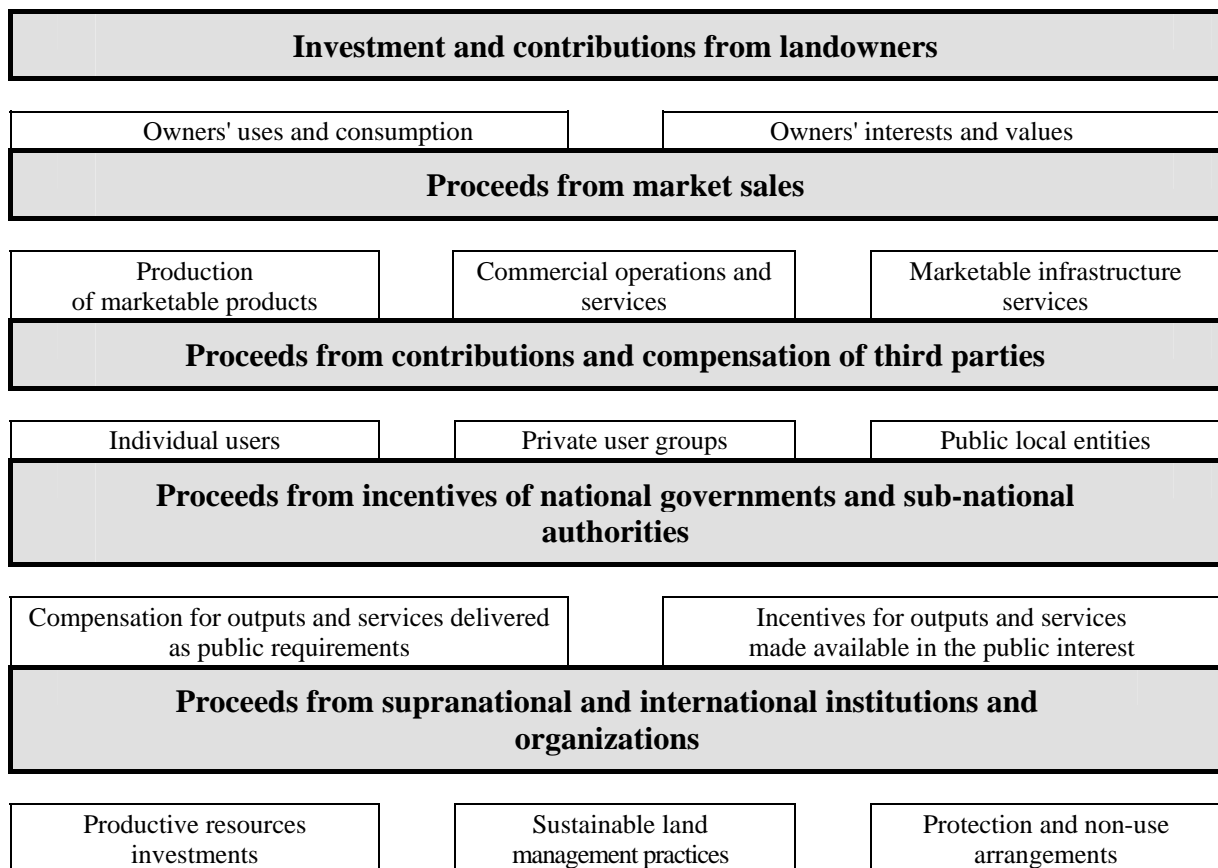
The far-reaching changes in the political framework for forest management call for a critical review of the ways and means for implementation. Issues to be considered refer to joint management responsibilities, choice of effective instruments and measures, consensus building among stakeholders, and to the role of public forest agencies.

The shift from state control to voluntary initiatives favors new forms of *joint management responsibilities* involving forest owners, the private sector, NGOs and public authorities.

- Policies and laws set the frame determining the requirements and performance standards of the parties concerned.

- Procedural arrangements support the promotion of co-operative forms of decision-making and contractual arrangements with third parties.
- Guidelines for best management practices, procedures for mediation and the exchange of information become institutionalised.
- Public authorities are increasingly involved in implementing more comprehensive programmes of land management.
- Negotiated activities on a contractual basis replace direct governmental intervention. They require a more precise understanding of targets, outputs and impacts of public policies and legislation.
- With more attention given to collaborative policies, informational and persuasive instruments gain considerable weight.
- Monitoring and evaluation of concrete results combined with free access to such information ensure greater involvement of citizens and stakeholder groups in public decision-making processes.

Figure 3: Financing Multiple Goods and Services in Forest Management



The choice of *appropriate instruments and measures* is currently in a process of change. Increasing emphasis is put on incentives, persuasion and participatory procedures instead on regulation.

- Labelling, for example, aims to influence the behaviour of timber customers by making the external costs of products more transparent.
- Voluntary agreements become more frequent between landowners and the public sector for the establishment of nature protection zones providing compensation for income losses from alternative uses.

- Persuasive instruments are more widely used as policy measures can be implemented more effectively if the addressees and stakeholders understand their reasons and agree with them.

New actors and a large range of stakeholders have to be integrated in forest management decisions. Institutional arrangements for *consensus building among stakeholders* gain weight since forestry practices have to demonstrate that they are in accordance with public demands and values. As a result of the demands of stakeholders and citizens for more participation and constitutional changes in the role of government, a significant acceleration in the revision of forest legislation is under way. New process-steering instruments in forest regulations concern for instance:

- Joint competencies of national, regional and local authorities in forestry matters;
- Integration of environmental functions in forest management regulations;
- Participation and joint responsibilities in management planning;
- More effective forms of cooperation, conflict resolution and public arbitration;
- Concerted and integrative approaches in law implementation;
- More transparency in decision making and more substantive information to the public.

The expanding framework of policies and laws requires a high amount of *process steering on the side of public forest agencies* and concerted decision-making on the side of the landowners, land users and environmental groups.

- This implies a shift to legislation which sets a frame for defining the requirements and performance standards of the parties concerned.
- It requires rules for the development of cooperative forms of decision-making and for contractual arrangements with third parties.
- From the viewpoint of the authorities it puts strong emphasis on output and not input oriented implementation of forestry programmes.
- And it supports negotiated activities on a contractual basis whereas direct governmental intervention is reduced.

The change from hierarchically structured forest services to public service organizations means a shift from individual decisions and projects to comprehensive land management and resources conservation programmes. In addition, it means that the forest law encourages the use of services offered by the private sector. At the same time, the law needs to define precise duties and services to be delivered by public entities. The change in the role of public forest services is based on the allocation of financial resources in relation to specific targets. Global budgeting and service contracts subject to meaningful criteria of financial control are increasingly used. Measurement of efficiency (output/ input), effectiveness (attainment of objectives) and economic performance (real costs/ standard costs based on best practices) become a necessity.

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THE NEW LAW ON FORESTS IN THE FEDERATION BOSNIA AND HERZEGOVINA AND PROBLEMS OF IMPLEMENTATION

BY MERSUDIN AVDIBEGOVIC

Abstract

The Forest Law in Federation of Bosnia and Herzegovina was adopted by Parliament at the session of the House of Representatives held on March 27, and session of the House of Peoples held on April 10, 2002. It was promulgated on May 20, 2002. Some provisions of this Law are completely new for the forestry sector and foresters. Because of that, the implementation process may face many problems, even obstructions. Issues as well as possible solutions which are discussed in this paper are:

- General provisions and references within the context of the Law
- Preservation and protection of the forests and their functions
- Forestry program and plans for managing forests and management regions
- Forests and forestland with a special management regime
- Ownership, management, cadastre, administrative and economic functions of forests
- Forestry institutions and supervision
- Financing issues.

Introduction

The forest legislation in Bosnia and Herzegovina has followed the traditional focus on forest resources management as well as on the importance of the forestry and wood processing industry for the national economy. Dynamic economical and political changes in the last decade of the 20th century and recognition of the importance of forest in a broader context emphasize the need for a new legal framework that addresses forest resource management issues. The first step in that sense was the proclamation of the Forest Law in 1993. Due to political reasons, this Law has never been fully implemented on the whole B&H territory. Some of its provisions such as forest ownership transformation from “society-owned” property to state owned property (public ownership) or organizational separation between forestry and the wood-processing sector make this Law an interesting starting point for understanding a number of issues in B&H forestry.

In the immediate post-war period, the World Bank's assistance strategy aimed at jump-starting economic activity through emergency projects in a broad range of areas. Noticing the importance of forestry for the national economy, especially in rural areas where the local economy is heavily dependent on forest and wood-processing industry, the WB initialized and mostly financed a National Forestry Program in order to improve forest management in B&H. The need to re-establish a legal framework in the forestry sector to ensure sustainable forest management was consistent with the WB and donor country policies for support. Consequently, the Law on Forests in the Federation of B&H was adopted by the Parliament of the Federation of Bosnia at the session of the House of Representatives held on March 27 and session of the House of Peoples held on April 10, 2002. It was promulgated on May 20, 2002.

General provisions and references within the context of the Law

Unlike the previous legislation the Law on Forests (hereinafter the Law) clearly contains general provisions and references. It regulates preservation and protection of forests, strengthening of their ecological functions, forestry planning and administration of the forests, economic functions, financing regeneration and enhancement of forests in the territory of the

Federation of Bosnia and Herzegovina (hereinafter F B&H), supervision of implementation of the Law, and offences and other issues connected with forest administration.

The forest, in terms of this Law has a new definition. It refers to any ground surface covered with forest trees or forest shrubs exceeding any contiguous area of 500 m² and having a width of at least 10 meters. The previous legislation prescribed the forest as a ground surface of at least 1000 m². Having in mind the intensive migration processes during a few past years, consistent application of this definition should have a serious implication on both, changes in land-use pattern and local peoples' legal rights. That is why, the forest in terms of this Law, shall not mean stands of forest trees and shrubs that have overgrown agricultural land in the process of succession, if they are younger than 20 years and if their canopies do not cover more than 50% of land. Furthermore, cemeteries covered by trees, tree nurseries outside the forest as well as forest trees and shrubs in urban parks and other inhabited areas should not be treated as forest in terms of the Law.

The forest shall also be comprised of forest tree nurseries, plantations of fast growing tree species, openings for power lines and other public infrastructure based on rights-of-way situated in the forest, forest roads and other forest transportation and fire preventive infrastructure, land subject to a reforestation order, areas dedicated to recreation, as well as lakes, running and other surface waters and wetlands inside the forest which are administered according to a special law. Forestland, in addition to the land overgrown with forest, shall be comprised of fallow land, under-utilized land, or unproductive land outside the forest, insofar as it is assuring or supporting the functions of the adjoining forest. Forestland shall also comprise areas with reduced forest cover, karst areas, and clearings and meadows inside the forest.

Within the context of this Law, some references such as clear-cutting, forest functions, deforestation, third party rights, sustainable forest management etc. are explicitly defined for the very first time.

Preservation and protection of the forests and their functions

According to the Law, deforestation is forbidden and shall be allowed only if it results in greater permanent benefits and if no harmful consequences for the environment are expected. The procedure of application for the permit is very rigorous and the applicant must submit a number of documents as follows: excerpt from the land register or cadastre of real estate, a copy of the cadastre plan, opinion of the Forest Institute of the F of B&H, environmental impact assessment, reference to the valid land use plan if the deforestation proposed is not temporary, consent of the bodies responsible for protection of cultural and natural heritage as well as for water management, and technical documentation that justifies deforestation in relation to forest functions.

Only facilities needed for forestry management should be allowed to be built in a forest. The Canton Ministry shall authorize buildings and installations, which are planned to be constructed within 100 m from the edge of the forest. It is also forbidden to set open fires in the forests and forestland as well as on land closer than 150 m to the forest border. Fire may exceptionally be set in forests and on forestland only on places designated and marked by the Cantonal Forestry Management Company after previous consent of the Canton Ministry responsible for fire protection, and observing the prescribed conditions as well as precautionary measures. The cantonal administrations shall provide on-duty guard service in the forests and forestland intended for recreation in time of holidays and other not working days.

This Law prohibits the use of chemical agents in forests. Tested chemical agents may exceptionally be used, provided they do not threaten the biological balance, for the protection of forest seedlings from game and weeds, for suppressing excessive populations of insects

whose numbers cannot be reduced in any other way, and for extinguishing forest fires. It is also forbidden to deposit waste, garbage, or polluting substances in the forest or on forestland.

According to the Law, pasturage, feeding livestock with acorns, browsing, cutting branches and gathering litter and mosses is prohibited in forests. The Cantonal Forestry Management Company may upon an agreed reimbursement allow pasturage on places, which are intended, for this purpose in the forest management plan. Pasturage may only be allowed if a shepherd watches the livestock.

From the forest or forestland it shall be forbidden to extract humus, loam, peat, peat moss, sand, gravel, lime, clay, stones, or minerals as well as to remove the bark from standing trees, any foliage, bark, lop and top, other woody debris and forest residues, litter, or other organic by-products of harvesting, which are necessary to enhance soil nutrition and fertility.

Pasturage in the forest or the use of secondary forest products are not allowed if there is a risk of impairing biodiversity or if species of flora and fauna protected by the nature conservation law would be threatened.

It is forbidden to cut, to uproot or in any way damage trees of *Picea omorica*, *Taxus baccata*, *Corylus colurna*, *Acer heldreichii*, *Pinus mugo*, *Alnus viridis*, *Pinus heldreichii* and *Petteria ramentacea* on their natural sites unless sanitary or tending felling is needed.

The number and species of game in a forest ecosystem must ensure a biological balance and may not threaten the development of the forest or prevent the implementation of the aims of its management. Introduction of certain game species into the forest and forestland shall ensure their long-term survival and shall not endanger forest ecosystems.

Motor vehicles are allowed to operate in the forest and on forest roads only for the purpose of performing forestry management tasks, including supervision, as well as for the needs of local inhabitants. Motor vehicles may be driven on forest roads also for rescue, police investigations, military maneuvers and measures to protect against natural disasters and maintenance of state infrastructure.

All persons have the right to enter the forests or forestland for the purpose of recreation, if not otherwise laid down in this or any other Federation Law. Without special permission from the Cantonal Forestry Management Company or the forest owner, it is forbidden to: pitch a tent or otherwise camp inside the forest, install beehives, hunt, fish, trap, collect secondary forest products weighing more than 1 kg, disturb or remove border or other markers, signs, or stones, enter areas, forest roads or landings where harvesting is being conducted as well as areas of natural regeneration, reforestation areas and forest tree nurseries.

Environmental impact assessment is obligatory for deforestation and afforestation with autochthonous species if the area in question exceeds five-hectare.

To ensure their protection or special management regime, certain forests may be declared protection forests (e.g. forests with main objective to preserve soils on steep slopes) or special purpose forests (e.g. forests of special cultural, historical, ecological and natural significance or forests designated for the purposes of public rest, general education, recreation and tourism). They should be managed in such a manner to ensure the achievement of the purpose for which the forest has been designated.

If the forest represents a part of an area protected according to any other Federation law, which lays down a special management regime also for forests, such forests should be considered as special purpose forests.

Regulations according to which a forest is declared a protection forest or a special purpose forest determine the regime of management of such forest, the executor of this regime and the legal persons responsible for providing funds for the costs relating to the special regime of management. The legal person who requested the forest to be declared shall pay the compensation to the Cantonal Forestry Management Company or the forest owner.

Forestry program, plans for managing forests and forest management regions

The Forestry Program of the Federation shall, taking into account international agreements and commitments, define general forestry and wildlife management policies of the F of B&H, oriented towards the preservation and sustainable forest management, including the maintenance and enhancement of biodiversity in the forests and forestland. The general part of the Forestry Program of the Federation should be prepared for a long-term period and the operational part for a period of five years. The general part should be harmonized on the level of the State and encompass standards for sustainable forest management, which shall represent the basis for certification of forest resources of Bosnia and Herzegovina.

Cantonal forest development plans shall be drawn up every ten years for all forests and forestland, irrespective of ownership, with the purpose to ensure sustainable forest management in each of the Cantons. In addition to guidelines of the Forestry Program of the Federation, the Cantonal forest development plans shall respect guidelines for managing the natural and cultural heritage in the forest and forestland, the water management conditions and guidelines for ensuring other functions of the forest, which are prepared by the Forest Institute and the Cantonal office. Cantonal forest development plans should be based on the same standards for the whole Bosnia and Herzegovina, what will be achieved with inter-Entity cooperation taking into account the joint concepts and definitions of international organizations.

For the purpose of ensuring rational and sustainable management of state forests and forestland, forest management regions shall be formed, which shall comprise karst areas as a special management unit. Forest management regions represent in terms of the site as well as of biological, geographical, transport, ecological and economical aspect a unified entity, in which sustainable management of forests and forestland is ensured. One or more forestry management regions can be formed within the administrative borders of the Canton. Forestry management regions shall be divided into management units. The Federation Ministry shall lay down criteria for establishing forest management regions after a proposal of the Cantonal Forestry Management Company. The Federation Government shall decide on the establishment or revision of a forest management region after receiving a proposal of the Federation Ministry, and on the request of Cantonal Forestry Management Company.

Management of forests is based on forest management plans and executing projects. Forest management plans for state forests shall be drawn up for a 10 years period. Forest management plans shall be in accordance with guidelines set in the Cantonal development plans and in the Forestry Program of the Federation. Forest management plans, land use plans, water management plans, hunting management plans and databases produced by the Institute for Protection of cultural, historical and natural heritage, as well as the federal program of management of certain mineral and minerals must be harmonized.

Any legal person registered for this activity after the approval of the Federation Ministry can prepare Forest management plans. For preparation of forest management plans for state forests any legal person can be registered, who employs at least four forest engineers among whom one for silviculture and forest protection, forest management and forest roads planning, forest exploitation and economics provided that they have at least five years experience in these fields. Forest management plans for private forests can be prepared by legal persons who employ at least two forest engineers with at least five years of experience.

Ownership, administration and management of forests

Forests and forestland shall be state-owned (hereinafter state forests) or owned by physical persons (hereinafter private forests). The Federation owns the state forests.

Private forests, in terms of this Law, are all such forests and forestlands for which a natural or a legal person can with valid documents from the land registry, from cadastre of real estate demonstrate that he or she is the owner of the forest. The right of ownership of forests and forestland, private or otherwise, may not be acquired through their use or mere occupancy, regardless of the duration.

It is forbidden to trade with state forests and forestland. Any act of transfer of state forests and forestland, which is not in accordance with this Law shall be illegal and such a contract shall be considered null and void. Forests and forestland may be traded only in a procedure of land reallocation as well as exchange upon consent of the Federation Minister based on an opinion of the Forest Institute and the Cantonal Office. The F of B&H has a priority right of purchase to private forests and forestland that the Government of the F of B&H, the Federation Ministry or the Canton Ministry have declared protection forest or special purpose forest.

The Forest Institute and Cantonal Offices shall administer state forests under the conditions laid down in this Law. The Forest Institute and Canton Offices shall not administer state forests and forestland that the Government of the F of B&H designates protection forests or special purpose forests, provided that administration of such forest is transferred to another legal person.

The Federation Ministry shall by contract transfer tasks of management of forests and forestland to cantonal ministries. Cantonal Offices within cantonal ministries shall transfer to the Cantonal Forestry Management Companies the following activities: drawing up forest management plans and execution projects and ensuring their realization, maintenance and construction of forest infrastructure, business operations of forest wood assortments, executing programs and plans of basic and extended biological reproduction of forests, measures of integral forest protection, production and trading of forest reproduction material and seedlings for horticulture, executing plans for exploitation of secondary forest products, executing forestry development plans and measures for rationalization in forestry and all economic responsibilities, benefits, tasks and decisions.

The Cantonal Assembly shall establish one forestry management company for the area of a Canton. Within the Cantonal Forestry Management Company, lower organizational units shall be formed in the area of one or more municipalities. The Canton Office shall provide financial and professional support for the establishment and functioning of different forms of forest owners associations where the reduced size of forest parcels, the fragmentation, or dispersal of parcels of different owners are contrary to sustainable and efficient forest management.

Forestry institutions and supervision

With this Law the Forest Institute shall be established as a federal institution within the Federation Ministry. The Forest Institute shall have the following tasks:

1. Collecting data and maintaining database on the status and development of all forests, including inventory of all forests and especially establishing cadastre of forests and forestland in the state ownership;
2. Preparation of the draft Forestry Programme of the Federation to be submitted to the Federation Ministry;
3. Confirmation and monitoring of the forestry management plan elaboration;
4. Preparation of the plan and program for extended biological reproduction of the forest, and programs and plans for afforestation of the karst and bare lands;
5. Confirmation, registration and recording objects for production and processing of forest seeds and producers of forest and other trees and shrubs in the F of B&H;

6. Performing professional tasks in connection with production of forest seeds and forest seedlings in accordance with this Law and other Federation Laws regulating planting material and issuing required documentation on the health and quality of forest seeds and forest planting material;
7. Monitoring the forest health and the extent and level of damage to forest, providing forest reporting and prognostic services, preparation of programs of integral forest protection and fire protection plans;
8. Elaboration of bases for forest development and hunting programs and providing data for the needs of physical (land use) planning along with the technical forestry norms;
9. Monitoring the economic conditions of forestry on the basis of data provided by the Cantonal Offices, proposing policy for prices of forest wood assortments and secondary forest products and informs the public on the status of forests and development of forestry, and issuing professional publications on the state of forests and their importance;
10. Preparing and elaborating annual programs of the forestry activities that should be financed or co-financed from the Federal Fund for enhancement of forestry with previously obtained opinion by the Federal Ministry;
11. Conducting forestry research and development as well as transfer of knowledge in forestry and hunting;
12. Preparing professional opinions on establishment and revision of forest management regions;
13. Preparing and giving opinions on proposals the forests to be declared protection forests or special purpose forests;
14. Developing inter-entity co-operation in forestry and hunting;
15. Developing and implementing International Conventions and standards in forestry and hunting;
16. Definition and implementation of the anti-corruption strategy in coordination with Canton Offices.

The Cantons shall conduct their tasks, as laid down in this Law, through the Canton ministry and the Cantonal Office for forestry. The Cantonal Office shall have the following tasks:

1. Collecting data and maintaining database on the status and development of forests, including inventory of all forests and especially establishing cadastre of forests and forestland in the ownership of the Canton;
2. Preparation of the cantonal forestry-development plan and submits it to the Cantonal Ministry;
3. Monitoring of the elaboration of the forestry management plan and its implementation;
4. Recording objects for production and processing of forest seeds and producers of forest and other decorative trees and shrubs;
5. Performance of reporting service and monitoring and reporting to the Federal Institute on status of the forest and level of damages;
6. Providing immediate protection to the forest through the forest guarding service;
7. Transferring state forestry management tasks to the Cantonal Forestry Management Company and follows implementation of the contract obligations;
8. Harmonizing forestry management plan with spatial plans, water management plans, hunting management plans, records maintained in the Bureau for cultural, historical and natural heritage and Federal program of natural resources management and plans with special natural resources management;
9. Giving opinion on forestry management plans;

10. Monitoring the economic conditions of forestry of Canton and providing data to the Federal Institute;
11. Preparing programs of the forestry activities that should be financed or co-financed from the Cantonal Fund for enhancement of forestry;
12. Preparing professional opinions on establishment and revision of forest management regions;
13. Preparing and giving opinions on proposals the forests to be declared protection forests or special purpose forests using method regulated by this law;
14. Preparation of the plans for construction and maintenance of the forestry roads, water spring protection and watercourse within forestry resources upon consent by a competent body for water management;
15. Monitoring the implementation of the unique prices of the forestry products;
16. Informing the public on the status of forests, and issuing professional publications on the state of forests and their importance;
17. Elaborating the annual working plan, financial plan and annual report and submitting to the Cantonal Ministry.

Tasks of the forestry supervision shall be performed by Federal forestry inspectors, Border federal forestry inspectors and Cantonal forestry inspectors. Federal forestry inspection can directly carry out the tasks that are a competence of Cantonal forestry inspection if it determined that there is no other way to implement provisions of the Law and/or competent the Cantonal inspection does not carry out the supervision within a specified deadline. Cantonal Forestry Inspector can carry out supervision that is in competency of Federal Forestry Inspection, upon authorization and order of the Federal Forestry Inspection.

Financing issues

Cantonal Forestry Management Companies are obliged to allot funds for basic and extended biological reproduction of forests. Owners of the private forest are obliged to allot funds for basic biological reproduction of forests.

Funds for basic biological reproduction shall be used for the following activities required by this Law: preparation of forest management plans, projects for execution, preparation of sites for natural regeneration, reforestation of areas that appear after clear-cutting or forest fire, selection and marking of trees before felling, tending of young growth, protection of forests from plant diseases and insects, forest fire and illegal cutting, production of forest reproduction material, construction of forest roads, development of hunting, guarding of forest and for other purposes ensuring sustainable forest management.

Funds for basic biological reproduction of the state forests ensure the Cantonal Forestry Management Company in an amount of at least 15% of the price of the wood sold or used by the legal person itself per average annual price of assortment as well as from the secondary forest products.

Funds for basic biological reproduction shall be used within a forest management region and cannot be transferred to another forest management region or be used for the common activities of the Forest Institute or Cantonal Offices.

Prior to selling of wood private forest owners shall be obliged to pay 15% of the gross income from the approved quantity of wood, as calculated on the basis of market prices, on the account of the Fund for Enhancement of Forests of the Canton. To ensure material and other conditions for reconstruction of degraded and coppice forests, afforestation of bare lands and the karst (extended biological reproduction) as well as to enhance generally beneficial

forest functions, the Cantonal Forestry Management Company shall allot at least 3% of income from the wood products and from the secondary forest products.

The Federation and Cantonal Enhancement Forestry Funds is established in order to finance activities as follows: afforestation of the karst and other bare lands, compensation for protection forest and forest with special purpose, scientific research and professional expertise, work of the guarding service, rehabilitation of the forest in a case of natural disaster, construction of forest roads primarily for implementation of forest protection and silviculture measures and nursery production. Income of the Federation and Cantonal Enhancement Forestry Funds shall be:

1. Compensations for the benefit of general welfare functions of the forest. These compensations shall be paid by all legal persons, which perform an economic activity in the territory of the F of B&H in the amount equal to 0,1 percent of their net sales income except Cantonal Forestry Management Companies;
2. Funds for the extended biological reproduction of the forest;
3. Compensations related: deforestation, excluding parts of forests and forestland from the forest management region because of their usage for other purposes if a general interest exists, funds for basic biological reproduction paid by private owners and trade with state forests and forestland;
4. Grants, credits, gifts and income from other sources.

Compensations referred to under a) and b) shall be paid semi-annually and upon the final statement of accounts in the proportion of 20% on a special account of the Fund for Enhancement of the Federation within the Forest Institute and in proportion of 80% on a special account of the Fund for Enhancement within the Canton Forestry Office of the canton in which the legal person is registered.

From the Cantonal Funds for Enhancement assets shall be allocated for the purpose of development of the under-/un-/developed parts of municipality in the amount of 2% of the proceeds obtained through the sale of wood assortments and the value of wood being used for personal purposes harvested by the Cantonal Forestry Management Company in the territory of the respective municipality.

Discussion

Due to society demands for economical benefits of forests, forest policy in B&H has been characterized in lack of sustainable balance between ecological, economical and social aspects of forests for a long period. In order to achieve that balance a number of provisions of this Law emphasize preservation and protection of the forests as well as their ecological functions. It is reflected in numerous provisions such as protection of some species, obligatory environmental impact assessment, harmonization of the Law with the set of environmental legislation etc. Furthermore, the Law prescribes the need, the content and the way for creating a long-term forestry strategy. As a similar document exist neither on the State nor the Entities level, this prescription is very important for further development of the forestry sector in B&H.

Having in mind the fact that the percentage of B&H territory under various kind of protection is very low (less then 1%) and it is going to be significantly increased, some provisions prescribe that the forestry institutions shall not administer state forests and forestland with a special management regime (protection forests or special purpose forests) provided that the administration of such forests is transferred to another legal entity. Unlike the previous forest legislation where cross-sectoral dialogue has been recommended, promoting of a pluralistic approach in forest management, participatory process in forest planning as well as restriction of technical authority domination are emphasized in this Law.

Even the collaboration between the Entities is mentioned related to common principles and standards of forest management on the whole State territory. However, unlike the environmental legislative according to which an competent Inter-Entity Environmental Body shall be set up dealing with all environmental issues that need harmonized approach of the Entities, the Law on Forests does not prescribe such an institution. This serious defect of the Law is direct consequence of the Dayton Peace Agreement of which Annex 4 represents the Constitution of B&H. According to the Constitution, B&H is composed of two Entities, the F of B&H and Republic of Srpska. Consequently, there is a question by whom and how the State interests would be represented relating the following issues: international treaties and programmes concerning forestry, cooperation with international organizations and other countries, coordination and implementation of existing legislation in both Entities, coordination of the State monitoring and information system in forestry, etc. According to the Federal Constitution the F of B&H consists of ten cantons. This Law prescribes that the F of B&H owns all public (state) forests in Federation. Such formulation illuminated a vague prescription of the Federal Constitution according to which both, the F of B&H and cantons have competencies in nature resources management. There is the logical conclusion - the Entities (and not the State) are owners of the public forest. Having in mind the non-existence of an Inter-Entity forestry coordination body, it is practically impossible to create and implement a consistent forest policy at the State level.

Forest planning and management in B&H during the past 40 years have been organized within forest management regions. These regions had been formed in 1961 as basic administrative and management units. They represented in terms of the site and all other aspects a unified entity, in which sustainable management of forests and forestland should be ensured. Naturally, some mistakes have been done while defining boundaries but they are either minimized or eliminated during the time. This Law prescribes cantonal boundaries and not previous established forest management regions as the administrative forestry units. The Entities' boundaries in most cases are nothing but the front line from the war while Cantonal boundaries are the result of post-war political negotiations. Both boundaries are not natural but artificial splitting almost all-previous forest management regions into two or even more parts. According to the Law one or more forestry management regions can be formed within the administrative borders of the Canton. Such provision is against the principles of sustainable forest management and the consequences of its implementation should be very serious. It is necessary to lay down scientific-professional criteria for establishing and revision of forest management regions disregarding administrative cantonal boundaries.

This Law is characterized by a completely new organization of the forestry sector in F of B&H. Unlike the previous legislation according to which all management activities were under the responsibility of the single federal enterprise with its organizational units on cantonal levels, this Law prescribes the establishment of a Forest Institute within the Federation Ministry, and Cantonal Offices within cantonal ministries. Cantonal Offices transfer all management activities to the Cantonal Forestry Management Companies. The question of vertical subordination is a weak point of this organizational model. In practice, the Forest Institute cannot perform the role of a central forestry institution, as it has not any organizational relationships with the Cantonal Forestry Management Companies which are independent legal persons. It is not clear to whom Cantonal Offices should be subordinated, either to the Forest Institute or to the respective cantonal ministries. The problem of competence and relationship between federal and cantonal levels derives from the Constitution's solutions. The Dayton Peace Agreement had irreplaceable importance for stopping the war but its applicability in building a rational organization of the State is dubious. Moreover, there are a number of requirements for changing some provisions of the Constitution deriving from the Dayton Peace Agreement. Anyhow, the organizational model

of the forestry sector characterized by more independent enterprises conducting management activities independently according to cantonal principles and without precise defined relationships between federal and cantonal levels does not exist in any other country of the region.

The provision related to establishing standards for sustainable forest management, which shall represent the basis for certification of forest resources of B&H points at two important characteristics of new legislation in most countries with an economy in transition. First, the modifications in forest legislation are very intensive due to influence of current trends in forest science, impact of international agreements and remarkable changes in society. The changes have been most evident in Eastern and Central European countries. Second, instead of a pragmatic analysis and adequate application, the mentioned trends (e.g. forest certification) are included in the legislation as an obligation. Forest certification, as one of the most topical and controversial issues in forestry at the present time is a marketing based instrument of forest policy. This concept should not be prescribed by forest legislation as it is initialized and determined by the “invisible market hand”.

The right of ownership of forests and forestland, private or otherwise, may not be acquired through their use or mere occupancy, regardless of duration. Even trivial at first sight, this provision is very topical having in mind the frequent usurpation of public forest and forestlands in rural areas of B&H. Furthermore, a huge number of refugees, as the consequence of the war circumstances, left their private estates and cannot use them due to an unstable political situation. The provision according to which the Canton Office shall provide financial and professional support for the establishment and functioning of different forms of forest owners associations would improve efficiency of forest management in fragmented and small private forest estates.

The F of B&H has a priority right of purchase to private forests and forestland that the Government of the Federation, the Federation Ministry or the Canton Ministry has declared protection forest or special purpose forest. The commitment regarding public ownership as the most acceptable type of forest ownership is underlined by this provision. Almost 80% of forests in B&H are state forests, which are recognized as the type of property able to ensure all aspects of forests requested by society.

Unlike the previous legislation, which prescribed that funds for basic biological reproduction of the state forests amounted 20% of the price of the wood sold or used by the legal person itself, this Law prescribes an amount of at least 15%. This percentage had to remain fixed or even more as the stock volume as well as increment in state forests was decreasing during the last decades. It is hard to believe that a deficit in the total amount necessary for biological reproduction would be compensated from contributions for the benefit of the general welfare of forests. Having in mind all weaknesses of national economy the effects of this new instrument should be symbolic.

Conclusions

The new Forest Law in F of B&H represents an example of nature resources management legislative influenced by constitutional and political solutions of the State. Both, international and national experts have prepared the Law. Struggling to build some international principles of forest management into the Law, to respect characteristics of the national forestry sector and to satisfy demands of all parties involved during the formulation process, they prepared a very complicated document the implementation of which is quite dubious.

At present, one year after its promulgation this Law is only a dead letter on paper. The Federal Institute and Cantonal Offices should begin with the activities at latest within six months after this Law enters into force. They are not formed yet. The cantons should be

bound, within six months from entry into force of this Law, to establish Cantonal Forestry Management Companies. Only 4 cantons have public forest enterprises but they are not registered in accordance with this Law. By-laws envisaged in the Law should be adopted within one year after its entering into force. Almost nothing was done in that sense during that period.

It is clear that this Law due to its own internal lacks and external (mainly political) problems may not be implemented in a way to ensure sustainable forest management in F of B&H. It takes a long time to improve some of the provisions prescribed by the Law and much longer to change the character of public policy in B&H. Could the forests in Bosnia and Herzegovina wait so long?

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NATIONAL FOREST PROGRAMME OF THE CZECH REPUBLIC IN BRIEF

BY KAREL VANCURA

Abstract

The principle from which the Czech National Forestry Program proceeds is the management of forests in a permanently sustainable manner. At the same time the administrative interference of the state is to be limited to the unavoidable minimum under the circumstances of motivating operation of state forestry policy for support of public interests and whilst increasing responsibility of forest owners for their property.

The National Forestry Programme is *supposed to be* an interdepartmental and *intersectoral* programme respecting not only the needs for the branch development of forest management. It puts emphasis on the place of forests in the environment and landscapes creation, on non-production functions of forests, their importance as a renewable source of ecologically advantageous raw material and on the significance of the use and processing of wood for the economy of the country.

The first concept of a National Forestry Program has been presented in 1993. The current version of the Program as agreed upon by the government (January 13, 2003) has been conceived for the period 2003 – 2006. In addition to information on the current state of forests and forest management in the Czech Republic, it contains chapters specifying appropriate measures to improve the current situation.

Development of the National Forest Program

A very first attempt for the National Forestry Program (hereinafter NFP) in the Czech Republic goes back to the beginning of the 90tieth. Mr. Jan Kubik, a former employee of Forestry and Game Management Research and Forestry Management Institutes, who also contributed to the creation of the National Forestry Committee (NFC), offered this idea as a response of foresters to the Pan-European process started by the 1st Ministerial Conference on Protection of Forests in Europe in Strasbourg 1990. The NFC was founded as an NGO in December 1993 as a voluntary organization aiming among other objectives to the abolition of discrepancies between “foresters” and “nature protectionists”.

An official publication prepared for the 2nd Ministerial Conference in Helsinki 1993 contained the proclamation of the “National Forestry Program as a professional response of foresters to the ideas from Rio, Strasbourg and Helsinki”. It stated that the current situation of forests was unsatisfactory in many localities and that foresters were likely to be not quite innocent in this respect. The so called “ecological groups” stressed that our forests were not considered to be close to nature and growth conditions of forests were distant from the state of natural forests. Thus, foresters harvested bitter fruits of previous preferential political (“economical”) management of the forestry sector. On the other hand, approaches of some fundamentalists were not only unrealistic but included paradoxically the threat of further destruction of destabilized forest ecosystems.

The overall changes and transformation of economic conditions significantly complicated the situation of forestry. It seemed that tendencies of state influence reduction, motivated by forest conservation in harmony with the principle of sustainable management, by means of an unconditional preference of market economy brought great risks for further the development of forests. The fact that the country had well a elaborated forest management basis for forestry practices but showed, at the same time, examples of totally destroyed forests made all documents of Pan-European and global processes a great challenge for Czech foresters. As professionals and public servants they had, and still have, to address problems of forest restoration in a broader environmentally defined context and to determine mandatory

maximally permissible or minimally required parameters for decisive management measures. Another task was to gain understanding and to attract interest from the whole society which they are bound to serve.

At the beginning of 90ties a range of forestry problems and activities were listed that should be focused on. Foresters had been called for joining all resources in order to formulate the problem of forestry as a strategic problem important for the whole society. It was recommended that foresters had to assume the vast task of elaborating a concise National Forestry Program as a general project with unified coordination and aiming at clearly defined funding. The program would have been directed at to the solution of carefully selected high-priority problems of contemporary forestry as a newly conceived branch based on the principle of sustainable, functionally integrated management in all forests irrespective of proprietorship boundaries.

The program should have included at least the following sub-programs: - forest ecosystems monitoring, - forestry research, - national forest management service, preservation and reproduction of forest tree species genetic resources, - forest protection, - active development and support to forest environmental functions in localities of increased public interest, - regional revitalization projects, - forestry education and improvement of public awareness. The first version of the National Forestry Program was presented during the CSCE Seminar of Experts on Sustainable Management of Boreal and Temperate Forests in Montreal 1993. Unfortunately this idea was not developed further in spite of the fact that later at international levels (e. g. COFO meetings) the need for such a program not only in the developing countries was evocated.

In the mid of the 90tieth the issue was raised again at the national level thanks to Jaromir Vasicek, former director of the Forestry Section of the Czech Ministry of Agriculture. The Forestry and Game Management Research Institute was involved in the preparation of an NFP in 1997/1998. Unfortunately, the material collected in a participatory manner with the involvement of various players was not completed, probably because of political reasons and different opinions on particular items. Then international activities renewed the process on the national level again, Czech experts participated in several meetings organised by MCPFE - but unfortunately not in the COST E19 program.

Finally the NPF received an official status in the Concept of State Forestry Policy in the Pre-accession Period to the EU adopted by the Government of the Czech Republic in the beginning of 2000. Chapter 5 of this document speaks about "the [National Forestry Programme as a System of Implementing Projects of the National Forestry Policy". An important target should be to analyse selected problems of the national forest policy and to propose alternatives of specific solutions. The present situation and relevant problems are described as follows:

The *targets* of the national forest policy as drafted are generally considered to be dynamic targets (desired long-term trends). The necessary *measures to be taken* are formulated as conceptional intents, by means of which the targets are to be accomplished. Further to the conception of the national forest policy, a coordinated „project preparation“ for the implementation of the intents is in progress within the framework of the NFP. Depending upon the nature of the problems to be solved, the *output* of the projects of the NFP will present fully specific proposals. The forest policy considers the following measures as necessary:

- to commission the Forestry Research Institute with the preparation, coordination of the NFP and with the conducting of the documentation centre of the programme,
- to further the participation of all the parties concerned in the discussion on the purport of the national forestry policy and means of its accomplishment,

- to provide conditions for a qualified discussion, to ensure an atmosphere of trust and full knowledge of all participants,
- to evaluate regularly the expert forestry opinions with the attitudes of other subjects and the accomplishments of the national forestry programme.

General information on the NFP of the Czech Republic

Problem areas of Czech forestry are covered by particular chapters, which are as follows:

- Managing forests according to the principals of sustainable management,
- Development of the productive and non-productive functions of the forest,
- Maintenance and development of the forest ecosystems biodiversity,
- Ensuring the production and use of timber as a renewable and nature friendly material,
- Managing forests in specially protected areas,
- The protection of forest ecosystems against harmful agents,
- The implementation of the National Forestry Programme in the regions.

After a brief analysis of the current state and a description of persisting problems, there is a specification of the measures required to improve the current situation. From the aspect of the tools available to forestry and ecological policy, these measures can be summarized as follows.

In the *economic* area important issues to be dealt with are:

- Addition of tools to the grant system of forest management
 - which motivate forest owners for a continuous and long-term improvement of forestry assets with due regard given to public interest in the development of the beneficial functions of the forest;
 - which support continuous sustainable forestry management in cases where forestry assets cannot demonstrably create sufficient required resources;
 - which ensure the financial rights of forestry owners for compensation of the consequences of restrictions which result from the implementation of Act No. 289/1995 Coll. (the Forestry Act), and of Act No. 114/1992 Coll. (the Nature and Countryside Protection Act), including newly passed amendments;
 - which ensure measures associated with biodiversity maintenance and improvement;
 - which increase significantly the support for forestation of marginal agricultural land (LFAs);
 - which support functionally integrated and functionally differentiated forestry management;
 - which support the use of felling waste for fertilisation;
 - and which support the application of natural regeneration of genetically suitable stands.
- Detailed quantification of the economic consequences of optimising the network of small specially protected areas, national parks and protected countryside areas and the creation of the NATURA 2000 system. For the NATURA 2000 system proposals should be included for dealing with any compensation to forest owners.
- Processing of a draft text for support of non-production forests functions as part of the preparation of programme documents for gaining assistance from the EU structural funds.
- Stressing the legal responsibility of all subjects for threatening forest stands with harmful substances polluting air, water and soil. This should be in compliance with the prepared legislation of the EU; final solution to system for compensation of damages to forest owners caused by emissions.

- Participation of the State Environmental Fund in support of sustainable forestry management.

The priorities in the area of *legislation* to be considered are:

- The preparation for draft amendments of Act No. 289/1995 Coll. and its implementing regulations with regard to the resolution of the following problems:
 - Specifying the status of regional plans for forestry development from the aspect of their relation to the forestry management plan,
 - More efficient support for the consolidation of forest lands,
 - Designating of professional qualifications for employees in forestry management, including state forestry management,
 - Concretisation of the rights, duties and responsibilities of specialist forest managers, including cases where the costs of their activities are paid for by the state,
 - Declaring forest stands in key areas to be forests of special designation necessary for preserving biological diversity whilst respecting the requirements of owners for compensation.
- Processing a draft for the amendment of the Nature and Countryside Protection Act (Act No. 114/1992 Coll.) and the relevant implementing notices which more precisely defines and zones the geographically non-native species whilst taking into account their significance.
- Amending Act No. 114/1992 Coll. and the relevant implementing decrees from the aspect of achieving conformity with the legislation of the EU, unifying legislation for planning of care in all categories of specially protected areas and on the territories incorporated into the system NATURA 2000.
- Finally resolve the issue of so-called “strict reservations” in the relevant legal regulations, including designating conditions allowing the spontaneous development of stands and responsibility for threats to the existence of a forest as a result of not carrying out protective measures against the operation of harm factors.
- Accept and implement the Concept of Hunting Policy of the Czech Republic, which will resolve the issue of reducing the damage caused by game as the basic starting point for the development of permanently sustainable forestry management.
- Amend and simplify regulations according to which the forestation of marginal agricultural land is implemented.
- Prepare a draft for arguing the Concept of Industrial Policy of the Czech Republic and its sub-programmes in support of the building and modernisation of the capacity for the effective finalisation of the production of timber processing.
- Initiate the preparation of a state programme of Raw Material Policy in the field of renewable resources which deals with timber and certain agricultural products.
- Ensure the application of priorities and programme measures of the National Forestry Programme in the Regional Programmes of Forestry Management Development.
- Process a draft for the new system of categorising forests.
- Prepare and gradually apply alternative methods for the economic arrangement of a forest in forests with a significantly differentiated stand structure.
- Deal with the issue of damage caused to forests and their owners by the implementation and operation of power lines and other linear constructions.

In the field of *research* the following problems have been identified:

- Resolution of the system of criteria and indicators of the polyfunctional (functionally integrated and functionally differentiated) management of forests.
- Completing processing of system for the forest functions evaluation on the basis of proposed methodologies adversarial evaluation.
- Creation of recommended optimised system of polyfunctional forestry management.
- Processing of quantification of potential of the individual functions in the concrete conditions of various types of forests.
- Research verification of genetic structure of autochthonic and other significant sub-populations of forest timber.
- Processing of draft for optimisation of network of small-area specially protected areas and perspective optimisation of forestry protected countryside areas in compliance with the State Programme for Protection of Nature and the Landscape.
- Establishment of National Databank of Natural Forests in the Czech Republic, its linking to the European databank, and the processing of parameterisation for the evaluation of the naturalness of forest stands in specially protected areas.
- Carrying out an analysis of potential dangers in the protection of forests, impacts of stress factors and the designation of a so-called threshold of economic harmfulness of damage to a forest and the environment caused by the most significant pests.

The following are a priority with regard to *organizational measures*:

- Carrying out a survey and genetic verification of autochthonous forest stands and stands intended for seed collection and selected trees.
- Updating the current lists of protected species of animals and plants in the implementary notice for the updated Act No. 114/1992 Coll., with regard given to the protection of biotopes.
- Carrying out a calculation of the critical burden and zoning of territories from the aspect of current and potential acidification of forest soils.
- Supporting proposals for the use of free capital resources of the larger forestry assets for the building of modern wood-processing capacities.
- Coordinating and supporting the cooperation of forestry and wood processing interest organisations when popularising the use of wood and products made of it.
- Supporting internationally acknowledged and economically acceptable procedures for the certification of timber which do not create discriminatory barriers to free trade and which respect the demanding legal standards of the Czech Republic, adherence to which guarantees the sustainable forest management.
- The intensification of education work with the public with emphasis on information procedures of sustainable forest management under the conditions of the enormous impact of antropogenic factors on the state of forests.

Conclusion

One may underline that the Czech NFP is prepared in the time in which the world community is concerned with the implementation of the strategic plan of the World Summit on Sustainable Development (WSSD) that took place in 1992 in Johannesburg. At the same time we have the resolutions of the 4th Ministerial Conference on Protection of Forests in Europe which underlines the multifunctional importance of forests, their benefits and the common responsibility of society for them. Thus foresters have a unique opportunity in making forestry more visible in order to improve overall awareness and involvement in forestry issues. National Forestry Programme should be considered as an appropriate tool for

doing so. If the NFP is supposed to be a program emphasizing i. a. the place of forests in the environment and landscape creation and the significance of their sustainable use for the whole society, it is quite obvious that an inter-sectoral approach has to be underlined. Various sectors of national economy have a responsibility for forest condition and for a sustainable supply of benefits which they offer.

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SURVEY OF THE CZECH FORESTRY LEGISLATION

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Abstract

The paper gives a brief survey on historical developments of forestry legislation on the territory of what is now the Czech Republic. The most important laws of the past are mentioned and the present Forest Act reflecting changes of the last decade of the 2nd millennium shortly described. This Act No. 289/1995 Coll. was adopted after five years of preparations and discussions in 1995, and it was passed in the tradition of the First Republic and includes modern trends of European Forestry. The Act is based on the need to preserve forests, and to tend and regenerate them as a national resource constituting an irreplaceable element of the environment. It defines the principles of managing different categories of forests – state, private, municipal. It designates the content of the individual terms and divides forests into categories of commercial, protective and special purpose forests, and forests under the influence of air pollution.

History of forestry legislation

The first known legal regulation of forest management in the Czech Lands comes from the 14th century. It was the draft code of Charles IV “Maiestas Carolina”, which was prepared around the year 1350. It contained a ban on felling trees with the exception of dead standing trees and windthrown trees, a ban on stripping the bark off trees and harsh penalties for the theft of timber, the removal and rafting of stolen wood and the starting of forest fires. It also stressed the protection of boundary forests. The bill never actually became law, but certain of the proposed measures were at least partially implemented. Another significant regulation from the 14th century was the Forestry Code for the Cheb area issued on 15th May 1379 which forbids the felling of construction timber for fuel without the knowledge and consent of the forester. The ban on felling applied primarily to conifers, but also to broadleaved: oaks and lindens. The reason for their protection was forest bee keeping.

As the shortage of timber worsened in the 16th century, the intensity with which forestry codes and instructions for the protection of forests were issued increased significantly. In January 1555 instructions were issued for the Grand Hunt Master, which were reworked in 1568. In addition to this individual forest owners began to issue instructions for the protection of their forests – between the years 1559 and 1610 many forestry codes and instructions were issued for other manors. Some of them also regulated felling methods. Forestry instructions are also to be found in the higher orders, for example for the estates of the Vratislav Bishopric of 1541. This contains probably the first expression of the principle of balance and permanence of felling: the division of forests in such a way that before the last section is cut down, the felled forests should reach felling maturity age.

Many instructions were issued for so-called mining forests intended for the requirement of mines. In order to ensure timber for mines in these forests, even the proprietary rights of their owners were restricted. From the 16th century onwards the owners affected in this way were regularly paid compensation for, usually a share of the mine’s yield.

The ever increasing shortage of timber at the start of the 18th century led the emperor Charles VI to issue forestry codes for the Czech lands in order to prevent the further devastation of forests. He announced his intention on 12th March 1733 in a prescript to the Moravian Provincial Authority in Brno. He saw the shortage of timber as a result of forests not being felled at an appropriate age, and indirectly implied the need to regulate management according to the principle of continuity and balance of timber felling. Despite this it took more than twenty years before generally binding regulations concerning management in

forests were issued. In the year 1754 Empress Maria Theresa issued the "Imperial and Royal Patent of Forests and Timber Provisions obtaining in the Kingdom of Bohemia". The patent imposed upon forest owners many duties and restrictions in the interests of the preservation of forests and their permanent yields. An owner was obliged to care for the reforestation of felled areas and to provide for forests in the future. Felling was allowed from the start of November to the end of February, and felled timber had to be processed and removed as soon as possible. Only in the event of calamities or in the case of mountain forests were exemptions allowed. Freeman and royal subjects also had to apply to the regional authority for permission to fell forests. Supervision by patron institutes was also established for church and foundation forests. The export of timber abroad was banned, but exemptions were allowed in justified cases, especially when transport of the timber to the interior was not possible. It was forbidden to use construction or other utility timber as fuel. Only windbreak timber could be for charcoal and ash production. Tapping the resin of healthy trees was forbidden, and was only allowed on stumps.

In order to regenerate forests it was recommended that seed-trees are left, in the lower areas regulated area felling was to be used, and large clearings could not be made in coniferous forests. Selective logging had to be practised in mountain forests, and in the event of limited area of felling it was necessary to ensure that forests were not opened up to the wind. Clearings had to be cleared of brushwood and stumps and then fenced in. Grazing in plantations was forbidden at least until the period when the grazing cattle could not nibble away the tops of the trees. The clearings were to be fenced in to prevent nibbling by game for the same period. The raking of moss, which exposed tree roots, was forbidden in coniferous forests. The lopping of branches was only allowed on broadleaved trees. The priority liquidation of dead standing trees in forests was ordered, and fires could not be set from the end of April through to mid October. Along with the measures regulating forest management, provisions were announced which were aimed at timber saving. For example, the construction of wooden fences and unnecessary buildings was banned, as well as the repairing of roads using wood etc. Supervision of adherence to the forestry code was entrusted to the regional authorities, and examining boards were established in the regions to examine the competence of forestry personnel.

Maria Theresa's patents concerning forests were in force for almost 100 years. In the course of this time forestry management advanced considerably, and for this reason it was necessary to modernise legislation. This happened with the enactment of the Austrian Forestry Act No. 250 of the year 1852, which remained in force, more or less, until 1960. This act designated in particular a ban on the reduction of the forest land without official permission, and in addition to other matters enables special supervision of forest management if circumstances require, e.g. avalanche danger, soil protection etc. It imposes the duty to designate a forest manager for large areas of forest and establishes state supervision of forests. Management according to forest-management plans was ordered in the Czech lands by a decree of the Czech Court Chamber in 1819.

Forestry legislation of the Czechoslovak period

After the creation of the Czechoslovak Republic, on 13th December 1918 Act No. 82/1918 Coll. "Provisional protection of forests" was enacted. It introduced the obligation to manage according to a FMP in all forests where these plans had been prepared, i.e., even when previous laws had not stipulated thus. In addition, this law forbade felling of wood in high forests system up to the age of sixty years, in low and medium forests (coppice forests, coppice-with-standards forests) up to the age of twenty years. During the World War II several modern forestry laws were adopted which progressive Czech foresters elaborated. After the war, ownership changed significantly and forests were gradually nationalised

and became state property. This process culminated in the years 1958 – 1963, when the state was given the last forests of municipalities and forest co-operatives. In the years of socialism two fundamental acts were adopted regulating forest management– the Act No. 166/1960 Coll. and the Act No. 61/1977 Coll. But neither of them was based on ownership principles, and they primarily dealt with the practices of managing state forests.

New Forest Act

In 1995, after five years of preparations and discussions, the new Forestry Act No. 289/1995 Coll. was passed which carries on in the tradition of the First Republic and includes modern trends of European Forestry. The Act is based on the need to preserve forests, to tend them and regenerate as a national resource constituting an irreplaceable element of the environment. It defines the principles of the relationship to the individual categories of forests – state, private, municipal. It designates the content of the individual terms and divides forests into categories of commercial, protective and special purpose forests and forests under the influence of air pollution. In the clause of general usage of forests, the rights of citizens to enter a forest at own risk and, to collect fruits and brushwood lying on the ground for own use are designated; it is possible to locate bee colonies in a forest with the consent of the owner but at the proposal of the owner or on the basis of decision proper of the state administration of forests, it is possible to decide on the restriction of entry into a forest in the interests of the protection, health and safety of the forest. It is also forbidden to damage a forest. The law also contains a list of forbidden activities.

The assumptions of sustainable development of forest management are ensured by the new instrument of forest management planning – the regional plan of forest development, which contains recommended principles of management in forests for the individual natural forest areas, and also forest management plans and principles. The obligation of managing according to forestry-management plans associated with the obligation to have these plans prepared at own expense applies to all forest property exceeding an area of 50 hectares. The owners of smaller forests can also acquire these plans and manage according to them. The binding indicators of forest-management plans are the maximum total level of felling and the minimum proportion of stabilising and soil-improving tree species, for state and municipal forests also the minimum area of improvement fellings in stands up to 40 years old.

Forest management guidelines are prepared for all forests with an area less than 50 hectares, and the costs associated with their preparation are at state expense. They become a binding indicator for an owner who takes delivery of one on the basis of a protocol: In the case of a forest area exceeding 3 hectares, it is the maximum overall level of felling and minimum proportion of soil improving and stabilising tree species, in the case of forest area up to 3 hectares, it is only maximum overall level of felling. Felling in forests, which the owner manages without an approved forest-management plan or a taken-over forest-management guideline, may only be carried out with the consent of a specialised expert forest manager, and if it is to exceed 3 m³/hectares per year, it must be reported in advance to the authorities for state administration of forests.

Regeneration clear cutting must not exceed the area of one hectare, and on exposed sites it must not exceed the width of one average height of the stand, on other sites double the average height of the stand. A clear-cutted area on forestland must be reforested within two years after felling and secured for seven years after felling. It is forbidden to carry out another clear cut up against unsecured plantations regardless of ownership boundaries. Divergent management measures may be adopted for protective and special purpose forests. A forest owner is obliged to endure restrictions of his management in the public interest and has a right to compensation for lost profit and increased costs (except for recognised game preserves).

The law determines conditions for the approval of forest stands for the collection of seeds and designates which tree species can be cultivated from seeds from certified forest stands or selected trees (spruce, pine, larch). In addition the law specifies principles for the protection of forests, reclamation and torrent control. The law designates that the owner is obliged to ensure management in forests by means of a licensed forest manager, and it defines the conditions for gaining a license as a licensed forest manager and similar licenses for those who are preparing forest-management plans and guidelines and for the collection and distribution of forest seeds.

In the year 2000 the Forest Act was updated. The reason was primarily rampant logging in conflict with the law. In the amendment responsibility for this activity is dealt with in particular and sanctions were increased. It is no longer possible to punish solely the forest owner for logging in conflict with the law but also the natural or legal person carrying out this logging. Another amendment will be necessary in relation to the harmonisation of forest legislation with that of the EU – for example, with regard to the prepared act on trading in forest reproductive material or the decree on classification of wood in the rough.

The decrees of the Ministry of Agriculture are sub-legislative standards (implementing regulations), that regulate forest management. Other acts which impact trading in forests are, for example, Act No. 114/1992 Coll., the Nature and Landscape Protection Act, and the State Enterprise Act (No. 77/1997 Coll.). The work on legislative tasks, which are to arrange for implementation of *acquis* into the Czech Legal Order, has been speeded up significantly in the last years.

Government Order No. 193/2000 Coll., on Performance of Forest Inventory (forest survey) during the period 2001-2004 entered into force on 1 January 2001.

In spite of expected changes of the European legislation, a Decree on the Classification of Wood in the Rough has to be adopted together with the Forestry Act. It should reflect the current European legislation, in spite of its handicaps. It was applied for postponing the introduction of this standard but if the appropriate directive is not changed, the national legislation will be amended so that it could be harmonized with the current provisions of the EU before the end of 2002. Draft decree implementing the Council Directive 68/89/EEC on the classification of wood in the rough is ready to be circulated within a couple of days for comments from the relevant sectors. After that, this draft will be submitted to the Legislative Council of the Government for approval. Decree will be published in the Official Journal of the Laws till the end of 2003 and will be effective since 1 January 2004.

Marketing of forest reproductive material (Council Directive 1999/105/EC). Act number 149/2003 Coll., on circulation of the forest reproductive material of important forest species and artificial hybrids, intended for a regeneration and re/afforestation, and about amendments of some relevant acts (Act on marketing of forest reproductive material) was adopted on 18th April 2003. This act fully implements Council Directive 1999/105/EC of 22 December 1999 on marketing of forest reproductive material and it shall apply from 1 January 2003. The Ministry of Agriculture is going to put the Forest and Game Management Research Institute in Jiloviste-Strnady (FMGRI) in charge of the pursuance of expert tasks in the area of reproductive material treatment.

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LEGAL REGULATION FOR HANDLING REPRODUCTIVE MATERIAL OF FOREST TREE SPECIES IN THE CZECH REPUBLIC

BY MARTIN FLORA

Abstract

The paper gives information on relevant regulations such as the classification of reproductive material sources, processes for official recognition, and provisions regulating international trade in reproductive material. In order to eliminate the existing differences in the Czech Republic a bill was prepared in 2001 concerning trade in reproductive material of forest tree species. The proposed act is based on the concept of minimal interventions in the existing system and only in those cases where an intervention is essential from the aspect of harmonization.

The bill deals with the area of trading in reproductive material of forest tree species, which are intended for the regeneration of forests and forestation. The reproductive material of forest tree species intended for non-forestry purposes or for breeding purposes, research or test purposes is not subject to the provisions of the bill. It does not cover rules for the use of reproductive material in a concrete locality (in particular the so-called rules for the transfer of reproductive material) which is an integral part of the current Forestry Act.

The bill adheres strictly to the terminology used in directive No. 99/105/EC. It adopts the requirements of the directive in whole i. e. only for species of increased significance for forestry in the EU member states in addition to which two species of elm (*Ulmus* spp.) have been added. Recognized sources of reproductive material are recorded centrally in the Register of Recognized Sources. The bill adopts the institute of so-called gene bases from the current legal regulation as a tool serving for the preservation of biodiversity and the protection and reproduction of gene sources. Only persons who are holders of a license issued by the Ministry of Agriculture may put reproductive material into circulation. These persons are recorded in a central register.

Legal regulation dealing with reproductive material of forest tree species

In the Czech Republic the legal regulation of handling reproductive material of forest tree species is contained (in addition to general private-law regulations – the Civic and Commercial Code) principally in sections 29 and 30 of Act No. 289/1995 Coll. Concerning Forests and the Amendment and Augmentation of Certain Acts (the Forestry Act). Implementing regulation issued on its basis gave rise to the decree of the Ministry of Agriculture No. 82/1996 Coll., Concerning Genetic Classification, Renewal of Forests, Forestation and Concerning Records when Handling Seeds and Seedlings of Forest Tree Species. Certain rules governing the handling of reproductive material of forest tree species can also be found in Act No. 114/1992 Coll., the Nature and Countryside Protection Act, as subsequently amended, in Act No. 147/1996 Coll., Concerning Plant Health Care and Amendments to Certain Associated Acts, as subsequently amended, and in Act No. 153/2000 Coll., Concerning the Handling of Genetically Modified Organisms and Products and Concerning Amendments to Certain Associated Acts.

The current legal regulation is the result of a long-term legislative development initiated in the first half of the last century by government order No. 350/1940 Coll., Concerning the Preservation and Cultivation of Tree Ingrowth with a Hereditary Value in Forests, and it is a reflection of the Czech forestry tradition based primarily on German and Austrian forestry. But in its current form the Czech legal regulation is not wholly compatible with the content of the Directive of the Council No. 99/105/EC, which in the context of the prepared accession of the Czech Republic to the EU and the liabilities arising for the Czech

Republic from the agreement concerning accession to the EU creates a need to adapt the Czech regulation to the requirements of the specified directive.

One of the main differences between the Czech legal regulation and directive No. 99/105/EC is the difference in concept. Whereas directive No. 99/105/EC designates the conditions for reproductive material of forest tree species to be a subject of trade within the EU, Czech law primarily regulates the conditions for the use of reproductive material on a concrete stand, this primarily being from the aspect of its ecological suitability. The classification of sources of reproductive material and process of recognizing sources of reproductive material also differ somewhat, and the requirements for the content and scope of documentation which should accompany the reproductive material also differ. Moreover, the current legal regulation also regulates international trade in reproductive material, because the consent of the Ministry of Agriculture is required for its import to the Czech Republic.

In order to eliminate the existing differences in the Czech Republic a bill was prepared in 2001 and sent to the Chamber of Deputies of the Czech Republic concerning trade in the reproductive material of forest tree species and concerning the amendment of certain associated acts. No decision had been taken on the bill in the Chamber of Deputies by the end of term of office in the year 2002, and so the newly elected Chamber of Deputies had to start the debate on the bill from scratch. During this process certain amendments were made to the wording of the bill, and its name was changed to the bill for introducing into circulation reproductive material of forest tree species of significant species and artificial hybrids intended for the renewal of forests and forestation and amendments to certain associated acts (Act Concerning Trading in the Reproductive Material of Forest Tree Species).

The proposed act is based on the concept of minimal interventions in the existing system and only in those cases where an intervention is essential from the aspect of harmonization. It is based on the following principles:

- The bill only deals with the area of trading in reproductive material of forest tree species, which are intended for the regeneration of forests and forestation. Trading is then defined in a relatively broad manner using the term “putting into circulation” used by Directive No. 99/105/EC. Reproductive material of forest tree species which whilst intended for the regeneration of forests and forestation is not traded and reproductive material of forest tree species intended for non-forestry purposes or for breeding purposes, research or test purposes is not subject to the provisions of this bill.
- The bill does not cover the regulation of rules for the use of reproductive material in a concrete locality (in particular the so-called rules for the transfer of reproductive material) which is an integral part of the current Forestry Act.
- The bill adheres strictly to the terminology used in directive No. 99/105/EC, which results in the introduction of certain terms not used hitherto in Czech forestry practice.
- The provisions of directive No. 99/105/EC apply only to species of tree specifically enumerated in it, the common characteristic of which is an increased significance for forestry management in the member states of the European Union. The bill therefore adopts the requirements designated by the directive in whole only for these species, in addition to which another two species of elm (*Ulmus* spp.) which are significant from the aspect of domestic forestry management have been added using article 3, paragraph 2 of the directive; the enumeration of species thus expanded constitutes the appendix to the act (also referred to hereinafter as the “species list”). For the remaining tree species, a person who puts reproductive material into circulation (supplier) has the option of using rules adopted from directive No. 99/105/EC. But in the event that this does not occur, the putting of reproductive material into circulation is not wholly free, as the bill designates the basic universally valid set of rules and requirements for reproductive material.

- Reproductive material of the species given in the species list may only be put into circulation if they come from officially recognized sources. Sources of reproductive material are recognized for the gaining of reproductive material of four categories – “identified”, “selected”, “qualified” and “tested”. The bill assumes that sources of reproductive material for species of tree which are not given in the species list will be recognized in the same manner – but for these species an officially recognized source does not constitute an obligatory condition for putting reproductive material into circulation.
- Recognized sources of reproductive material are recorded centrally in compliance with the conditions imposed by directive No. 99/105/EC in its article No. 10 in the Register of Recognized Sources of Reproductive Material, which is publicly accessible.
- The fact that the reproductive material was gained from a source required in law is proven by a so-called certificate of origin issued by a body of state administration.
- Only persons who are holders of a license issued by the Ministry of Agriculture may put reproductive material into circulation. These persons are recorded in a central register.
- Reproductive material can be put into circulation if along with requirements designated for its source it also meets the further designated requirements for morphological and physiological quality and its state of health.
- Reproductive material can only be put into circulation in the event that it is equipped with the prescribed accompanying documentation (so-called accompanying certificate). The scope of information given in the accompanying certificate is broader if the reproductive material is put into circulation as “identified”, “selected”, “qualified” and “tested”.
- The import of reproductive material is subject to the consent of the Ministry of Agriculture. After the accession of the Czech Republic to the European Union this permission will not be required for reproductive material produced in member states of the European Union if furnished with the prescribed accompanying documentation and if it complies with the designated quality requirements.
- In compliance with directive No. 99/105/EC the bill assumes that in the event of an unforeseen shortage of reproductive material corresponding to the requirements designated by the law, the Ministry of Agriculture may also allow reproductive material which does not have the required properties to be put into circulation.
- The bill adopts the institute of so-called gene bases from the current legal regulation as tools serving for the preservation of biodiversity and for the protection and reproduction of gene sources. For forests on the territory of gene bases, the adoption of special rules of management is assumed.

THE ENFORCEMENT OF THE ENVIRONMENTAL LAW FOCUSED ON FOREST PROTECTION IN THE CZECH REPUBLIC

BY MARTIN BARANYAI

Czech Environmental Inspectorate

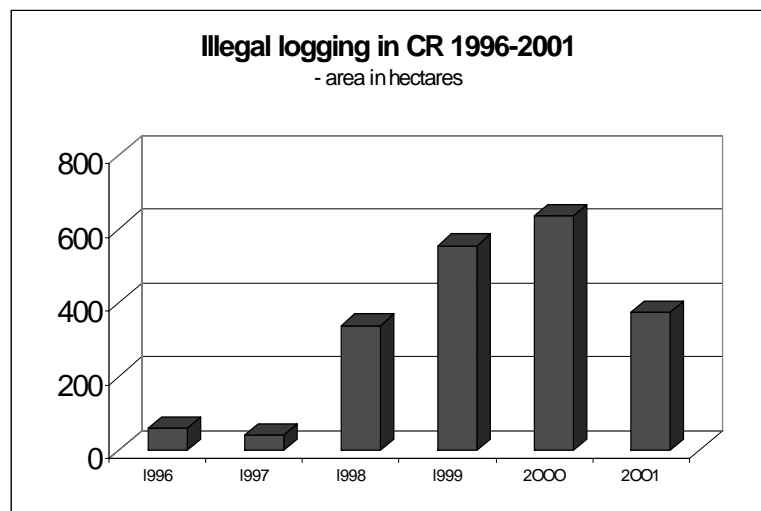
The Czech Environmental Inspectorate (CEI) is single supervisory body under jurisdiction of the Ministry of the Environment. CEI was established by Act No. 282/1991 on the CEI and its function in forest protection. The present CEI has 5 departments - water protection, protection of ambient air quality, waste management, nature protection and forest protection. CEI monitors compliance with laws on environment protection and their parts, conducts inspections, decides on measures to remedies of discovered failures, imposes sanctions for violating environmental laws etc. In the field of forest protection CEI searches for failures and damages with regard to the function of forest as a part of environment; enforces the duty to eliminate and to make remedies of discovered failures, their causes and consequences; and imposes measures to their elimination and remedies. Then CEI checks the performance of the imposed measures. In cases of acute danger of damage, the Inspectorate is authorized to impose restrictions, or to close down the production or other activities until failures and their causes are eliminated. CEI is authorized to impose fines to legal and private persons who endanger or damage the forest environment by their activities:

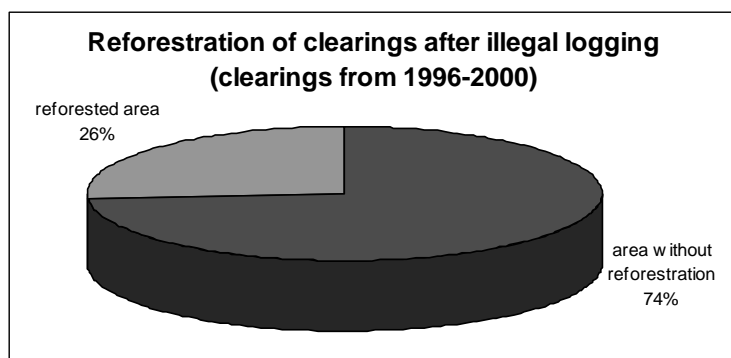
- illegal use of forest land for other purposes than fulfilling the functions of forest,
- causing creation of conditions for activation of malicious biotic and abiotic agents by their own guilt,
- not fulfilling measures imposed by environmental authorities according to the Act No. 282/1991, Coll.

Illegal logging (IL) in the Czech Republic

After so called velvet revolution, when the process of restitutions (re-privatization) of forests went ahead considerably, some subjects in private and municipal forest have not had any will to respect the law. One of the result is the violation of forest protection law - the illegal logging of forest stands.

CEI made an inventory of illegal logging in the Czech republic for period 1996-2001 throughout the year 2002. Chart number 1 shows the area of clearings from illegal logging during this period. CEI collected data from district offices and regional inspectorates. The result of the inventory in total numbers is following: during the period 1996-2001 violators logged in illegal way 548,171 m³ of wood and the area of clear cuttings is 1564 ha. The volume of felling areas and logged out wood are minimal, because some authorities did not registered the technical units of IL and not every illegal clearings has been detected.





In some regions IL caused serious environmental negative impact. IL has occurred mostly in small private and municipal forests. It shows that approximately 20% of forests in Czech Republic have been endangered by IL. Violators have used clear cutting or illegal felling of target trees in premature

forests. Specific group of violators did not repeatedly respect the law and also decisions of local and regional authorities.

IL has been followed by problems with reforestation of clearings. The Czech Forest Act No. 289/1995 Coll., in § 31 orders the re-forestation duty within 2 years after logging (creation of clearing). CEI inventory detected that only 26% of clearings from IL have been reforested (by natural or artificial regeneration) in accordance with the legal deadline. CEI and other regional and district authorities engaged administrative procedures against the IL. Basic enforcement practices used by CEI are:

- decisions on remedial actions (imposed measures for elimination and remedies of the environmental harm or threat)
- decisions on fines
- close down of production or other activities until failures and their causes are eliminated.

The inspectorate may impose a fine up to 1,000,000 CZK upon natural or legal persons whose activities endanger the environment in forests. If the violators do not respect this decisions CEI may use some other enforcement practices:

- submission to Police - serious harms under criminal law
- notification to The National Certification Center
- suggestion on suspension of trade license to local authorities
- proposal on limitation of subsidies.

However hard we tried IL is still an acute problem in some regions with all negative impacts on forest and also on environment. Public beneficial role of the forests has been seriously limited there. In some cases every current enforcement practices are ineffective and situation in some forests damaged by IL is getting worse. Sometimes transboundary movement of persons liable for illegal timber extraction has been noticed in some cases of this plundering logging; unfortunately, these escaped sanctions.

In this connection CEI introduces the idea of international project focused on exchange of experiences and on developing news partnership at international level, which should find the more effective way in enforcement of environmental law in forest protection, combating illegal harvesting of forest products. CEI as a member of IMPEL - international network of environmental authorities within EU negotiates on IMPEL meetings the way of realization of this project idea (<http://www.europa.eu.int/comm/environment/impel>). The IMPEL secretariat recommended to discuss this project proposal with forestry international networks within Europe.

Proposal of international project

"Good practices in the enforcement of environmental law focused on the protection of forests against the illegal timber logging and it negative impacts in post-socialist countries in Central and Eastern Europe"

After the collapse of socialist regimes in Central and Eastern Europe, some negative facts have been detected during the course of the countries conversion to democratic practices. One of these is the violation of forest protection law - the illegal (and plundering) logging of forest stands poses the worst environmental impact. This is a very pressing problem in some localities and brings negative impact on the forest stability and local ecosystem. The forest water-retaining capability and public beneficial role of the forests are seriously limited. Trans-boundary movement of persons liable for illegal timber extraction has been noticed in some cases of this plundering logging; unfortunately, these escaped sanctions.

Undoubtedly, forests play an important role in the preservation of the ecological balance that is necessary for sustainable control and development of the countryside and more effective law enforcement against illegal logging should contribute to achieve the Objectives of 6th Environment Action Programme of the European Community.

The Czech Environmental Inspectorate proposes a new international project entitled "Good practices in the enforcement of environmental law focused on the protection of forests against the illegal timber logging and its negative impacts in post-socialist countries in Central and Eastern Europe". Objectives of this project are:

- a) Comparison of the current approaches in the area of forest protection against illegal logging in post-socialist countries in Central and Eastern Europe based on the introductory questionnaire (legislation and ways of enforcement, authorities, competencies of environmental inspectors in forest conservation, remedies of negative impacts etc.)
- b) Analysis of these approaches and identification of good (best) practices of law enforcement in this area, identification of compliance with EU legislation
- c) Preparation of recommendation for improving relevant national legislation in post-socialist countries, perhaps definition of minimal requirements
- d) Establishment of an international information and communication network of EU environmental authorities that are responsible for the enforcement of environmental law in the forest protection on the national, regional and local level. It would be desirable to establish a network of representatives of relevant national authorities in the field of enforcement, primarily aimed at the exchange of information in the field of enforcement and at the development of common approaches at a practical level.
- e) Establishment of expert training teams on national level and preparation of training topics focused on the enforcement of environmental legislation in forest protection

Representatives of the post-socialist countries in Central and Eastern Europe authorities enforcing the environmental law with regard to forest and nature protection are invited to participate, likewise applicants from EU member states.

NEW DRAFT BILL ON NATURE PROTECTION WITH REGARD TO NON-STATE OWNERS OF FORESTS IN THE CZECH REPUBLIC

BY STANISLAV JANSKY

The protection of nature in the Czech Republic has a tradition going back many years. First reports of protection date back to the middle of the 18th century when in 1721 Adam Schwarzenberg took precautions to protect bears in the Sumava Mountains. In 1838 Jirí Augustin Languéal Buquoy decided to declare on his estates the protection of virgin forest growth in the Zofinsky virgin forest and Hojna Voda in the Novohradske mountains. These areas are considered to be the oldest natural preserves in Europe. In 1858 Jan Schwanzenberg established another reservation on his property – Boubinský virgin forest. Conscientious owners of forests can be considered the first protectors of nature in Bohemia.

In the period after the revolution in 1989 improvement of the environment became one of the priorities in the Czech Republic. The entire nation realised the need to reduce pollution, to renew the forests destroyed by air pollution, to build sewage treatment plants to improve the state of water courses. One of the steps taken was new legislation on environment, including the Protection of Nature and Landscape Act 114/1992 Coll.

Everything was happening at a time when municipalities and private owners were just beginning to take possession of their property and in particular property was being identified and problems regarding its handing over were being resolved (the handing over of property to municipalities according to Act 172/1991 Coll., restitution to physical entities according to Act 192/1991 Coll.). There were new people in charge of municipalities and district authorities who were just starting to gain experience. Therefore it is no wonder that the provisions of the Protection of Nature and Landscape Act 114/1992 Coll. do not contain elements which are common in the laws of countries with developed democracy, in particular the respect for the rights of land owners to decide on how it should be used and the handling of compensation for damage or loss when deciding on restrictions in the interest of carrying out nature protection plans and measures.

Time has shown both the positive and negative aspects of the laws that have been adopted. In the last ten years the state of the environment, the cleanliness of the atmosphere and water has improved significantly. The state supports the desulphurisation of thermal power stations, the transfer to more ecological heating systems, the construction of sewage treatment plants, and invests a relatively large amount of funds into nature protection – large and small protected areas. At present roughly 15% of the area of the Czech Republic is specially protected areas and 80% of these areas are forests. In managing the forests their owners must respect the decisions passed by the nature protection authorities which have the right to issue a binding statement on all cases of intervention.

In 1995 a new Forests Act (no. 289/1995 Coll.) was passed in the Czech Republic. At that time there already existed the Association of Owners of Municipal Forests whose active approach to the debate and discussions on the bill in Parliament undoubtedly contributed to the fact that the public interest requirements (general use of the forests, increase in biodiversity, non-production function of forests) and the right of the owner to decide on how to manage its forests are relatively well-balanced.

State contributions to forest management are actively aimed towards increasing biodiversity, supporting forest renewal, improving the non-production function of the forest and supporting planned management. This approach means that there is an overall improvement in the state of the forest in all its features.

In 2004 the Czech Republic will become a member of the European Union. One of the conditions of the accession agreement is the implementation of EU directives nos. 79/43/EHS

on the protection of wild birds and 92/43/EHS on habitats included in the Natura 2000 project. Their implementation in EU member countries has led to disputes with owners of land, financing of losses were underestimated, and in none of the countries the process has been completed. The EC Directorate for the Environment (DG Envi) has confirmed this fact and in 2002 it called on member states to improve communication with owners and local administrative authorities and to use contractual protection of the proposed areas.

The implementation of the Natura 2000 system in Czech law was given as the main reason for the amendment to the Protection of Nature and Landscape Act 114/1992 Coll. The Ministry of the Environment drew up the bill and at the end of 2002 it was submitted for discussion in Parliament. Unfortunately Parliament's web-site was the first opportunity that owners of forests and land had of familiarising themselves with the draft bill.

We, the heads of the Association of Owners of Municipal and Private Forests, as the organisation representing non-state owners of forests in the Czech Republic, found after studying the bill that it

- is less democratic and more restricting towards owners of forests and other land than the existing wording of Act 114/1992;
- it greatly exceeds the binding criteria for the implementation of the Natura 2000 EU directives.

After discussions with the heads of state forests (LCR – Forests of the Czech Republic, S. E., VLS – Military Forests and Estates, S. E.) we specified the following basic problem areas in the submitted bill:

1. The process of the bill preparation has not been transparent enough and parties alluded to the matter had no opportunity to express their opinion in course of the proceedings. The author of the draft bill – the Czech Ministry of the Environment – did not invite any representatives of either state or non-state forest owners or managers for specialist consultations throughout the entire time that the bill was being drawn up until it was submitted to the Czech government.
2. The construction of the draft bill provides the Ministry of the Environment in a number of cases with the opportunity to significantly restrict owner activities and to set the scope of the restriction under a legal norm. There is a danger here of authoritative decisions being made without any control by the public or landowners, i.e. those who will have to bear the restriction.
3. It proposes setting up a Nature Protection Board, a special office of Civil Service, with the power to pass decisions without administrative proceedings and without the involvement of owners, the affected municipalities and administrative bodies at the relevant level. But nature protection represents only one of many public interests and its relevance, comparing with other interests should be judged on relevant levels by the respective public administration board.
4. A whole number of measures proposed in the amendment fail to respect the current extent and high level of care of specially protected areas in the Czech Republic. Nor in forest management does it take into consideration current specialist knowledge or the strict provisions of the Forests Act 289/1995 Coll. The target is known for each forest station and the current situation throughout the entire Czech Republic (forest land) is aimed towards improving ecological stability in the form of intermediate forest management plans (10 years) and in the long term in the form of regional forest development plans. These aims are supported both materially and financially by the State (Czech Ministry of Agriculture). Despite the fact that the national nature protection body gives binding statements on forest management plans and regional plans of forest development, the draft bill requires further assessment of the effect on the environment. The choice of localities

of the Natura 2000 National List is applied without participation of landowners and representatives of communities as well as without usage of expert knowledge of forest managers. Proposals are concealed to the public.

5. The focal point for increasing the ecological stability of the countryside does not lie in forest growth, which is systematically being taken care of, but in agricultural land. Here practically nothing has been done up until now except putting the soil in order.
6. The way to improve the state of the countryside lies in the education and financial motivation of all those who are involved in the project to improve the ecological stability of the countryside and to protect the landscape. Not in the form of impractical orders and subsequent sanctions.
7. In its presentation of the draft bill the Ministry of the Environment considers including 20% of the area of the Czech Republic on the Natura 2000 National List. It has calculated costs only for its setting up and monitoring, not the costs for loss and restriction of management. The breadth and extent of the specially protected areas and the newly created Natura 2000 areas need also to be considered in advance with regard to the economic impacts, other public interests and the owner's plans. EU Directives suppose to include about 5% of the country territory to the Natura 2000 system. If there is 20% of the territory of the Czech Republic included into the National List, in the current economic situation it should lead to the lack of financial resources for adequate care of those vast areas. More intensive care on smaller size localities seems to be more pertinent.
8. The expansion of intervention-free nature protection zones and limitations on wood exploitation mean a restriction on the use of renewable raw material resources and a shift to greater use of non-renewable raw materials.

Forest owners are attached, in the sense of current Act on Forests, to active approach to biodiversity increasing in their whole property. This means all sites increasing of soil improving and stands stabilising species ratio according to approved forest management plans.

This situation demonstrates the fact that the author of the bill – the Ministry of the Environment – has not learnt from the shortcomings, which are the reason for the protracted implementation of the Natura 2000 system in EU member countries. It anticipates a very large degree of protection without paying any regard to the opinions of owners and local administrators or the economic possibilities of individual countries.

In order to resolve these shortcomings we have drawn up alternative proposals. The serious nature of the problems has been recognised by parliamentary committees and they have begun gathering comments made regarding the submitted government bill. Other subjects have pointed out the shortcomings in the law and the curtailment of their rights and powers – owners and managers of agricultural land, regional associations, water course managers, shipping organisations, hunting and ornithology societies. At present more than 200 alternative proposals have been submitted, which amongst other things draw attention to the following: It is necessary to

1. ensure that the national regulation does not restrict owners and managers of land more than the obligatory provisions of the relevant EU directives;
2. minimise the number of cases where the rights of the owners and managers of land are restricted without any administrative proceedings;
3. allow for the contractual protection of areas, including those covered by Natura 2000;
4. limit duplication when evaluating certain plans and programs concerning the environment (for example, the assessment of forest management plans according to EIA);
5. remove from the draft bill terms which are not defined anywhere or which are completely incorrect);

6. to guarantee owners, under the restriction arising from Act 114/1992 Coll., adequate compensation for loss which is an important self-regulation mechanism.

In addition the following statement is of importance. The creation of another central administrative body – the Nature Protection Board – with extensive powers is contrary to the ongoing reform of state administration; the solution being proposed does not exist in the EU and is not necessary in order to ensure the compatibility and enforcement of the law. The aim is to minimise the number of cases where the rights of the owners and managers of land are restricted without any administrative proceedings.

From our point of view the current situation is not good. The life of owners and forest managers is closely connected with the nature and its active development. However, they depend also on good economical results of their work.

On our understanding, a way to the improvement of the landscape condition leads throughout education and financial motivation of all those who have to take part in the process of landscape protection and improvement of its ecological stability. The way in a form of non-practicable requirements, orders and following sanctions does not lead to the improvement.

The real shape of a new act on the nature and landscape protection and its consecutive impact on forest management of all forest owners is now up to the decision of Members of Parliament.

FOREST LEGISLATION IN GEORGIA

BY MARIAM KIMERIDZE

State of Forests

Forests are considered as special environmental protection areas, and as unique and most important ecosystems with high ecological, aesthetic, cultural and historical value (Harcharik, 1997; Isik *et al.*, 1997). Natural forest, with its biological integrity, productivity and structure, greatly surpasses the ecosystems of artificially created forests. 90% to 95% of Caucasian and in particular Georgian forests are of natural origin.

Forested land in Georgia occupies 2,773,400 ha. About 2.2 million ha are classified as state forest under the responsibility of the State Department of Forest Management (SDFM) and the remaining consists of former "Kolkhoz lands" part of which are now in the process of being transferred to the SDFM (Akhalkatsi, 2002). About 98 % of forest is located on mountain slopes (Gulisashvili *et al.*, 1975). There are about 400 species in the forests, among them: trees 153, high shrubs 202, low shrubs 29, and lianas 11 (Gigauri, 2000). There are 11 conifers belonging to three families *Pinaceae* (4), *Taxaceae* (1) and *Cupressaceae* (6). 81% of the total forest area is occupied by broad-leaf forests of beech, Georgian and high mountain oak, hornbeam, chestnut, ash, maple etc. (Kvachakidze, 2001). 19 % is coniferous forest composed by Caucasian fir (8,5 %), Oriental spruce (5,8 %), Caucasian and Bichvinta pines (4,7 %), yew and juniper species.

Forests in Georgia are mostly heavily damaged due to over cutting, forest fires, tree disease etc. The degradation of qualitative consistence and productivity leads to the reduction and sometimes even causes loss in the functionality of forests. As a result, avalanches and landslides are happening quite often in the mountainous regions. Virgin forests occupy about 500-600 thousand ha (Ketskhoveli, 1959). They are mainly located on steep slopes of the Great and Minor Caucasus where access is restricted. Loss of diversity and changes in species of forest areas lead to the creation of Protected Areas, which amount to 7,5% of the total forest area of Georgia. According to the "Forest Code of Georgia" a number of forest categories are subjected to some restrictions, which allow us to consider them as Protected Areas. The calculated area of "protected forest categories" (resort, green zone, steep slope, tree line and riparian forests belong to the corresponding IUCN categories; V, V-VI, IV-V, IV-V, IV-V) amounts to 1,113,130 ha, which is almost 15,9% of Georgia's territory. Data on protected forest categories of Georgia are given on Table 1.

Table 1. Data on Protected forest categories of Georgia.

Category	IUCN corresponding category	Area (ha)
Resort forest	V	118.517
Green forest	V-VI	268.469
Steep zone slope forest	IV-V	681.298
Tree line forest	IV-V	32.188
Riparian forest	IV-V	12.658
Total		1.113.130

Legislation

Georgian legislation regulating tending, protection and use of the Georgian Forest Funds comprises of the Constitution of Georgia and some laws on environmental issues ratified by the Georgian Parliament. In accordance with the Constitution, Georgia assumed quite serious commitments in the field of environmental protection and started development of new environmental legislation and adapting existing legislation to comply with the

constitution, international agreements in the fields of environmental laws and other regulations. Georgian laws related to the environment are shown in Table 2.

Table 2: Development of Environmental Legislation	Year
Law on Protection of Plants from Harmful Organisms	12.10.1994
The Constitution of Georgia	24.08.1995
Law on Protected Areas System	07.01.1996
Law on Normative Acts	29.10.1996
Law on Environmental Protection	10.12.1996
Law on Animal Wildlife	26.12.1996
Law on State Ecological Expertise	01.01.1997
Law on Environmental Permit	01.01.1997
Law on Water Resources	16.01.1997
Law on Creation and Management of the Kolkheti Protected Areas	09.12.1998
Law on Changes and Amendments into the law on Protection of Plants from Harmful Organisms	16.04.1999
Forest Code Law on Special Preservation of State Forest Fund and the Plantation within the Tbilisi	22.06.1999
City and Neighboring Territories	10.11.2000
Law on Changes and Amendments to the Forest Code	10.11.2000
National Environmental Action Plan of Georgia	19.06.2000

Preparation of the first National Environmental Action Plan (NEAP) commenced in 1996 and was completed in 2000. At present, NEAP has authority of regulation. As regards the forest sector, NEAP is rather general. It is more a description of the existing situation of the country's forests rather than a program of activities. The NEAP intends reforms in the following priority directions: preservation of the diversity of the forest ecosystems; ensuring stable regeneration of forest resources; improvement of the relevant legal base; training of personnel in sustainable management; ensuring improvement of social and economic conditions of the staff; reform of the forestry system, by making it independent from entrepreneurial activity; providing conditions which will attract private investments into forestry. The program is planned for the period 2000-2004, however, there are no specific programs scheduled and responsibilities assigned to forest related activities.

Forest Code

The main document is the "Forest Code of Georgia", which addresses the following issues: Management of the State forest fund; Forest protection; Forest use; Forest restoration and tending; State monitoring and supervision of forest protection and enforcement of the forest legislation; Settlement of disputes on tending, protection, restoration, afforestation and forest use and Liability for infringement of the forest legislation.

The Forest Code includes the following definitions of forest areas: a) Georgian Forest Fund – integrity of forest and their resources owned by the State Forest Fund and forests under different types of ownership; b) State Forest Fund – integrity of State Forests of Georgia, as well as lands and resources attributed to the fund; c) State Forest – forest owned by the State. According to this law, forest can be in the ownership of the State, the Patriarchy of Georgia, or of a physical or legal entity. This article will come into force only after the enactment of the Law on Privatization of Forests owned by the State. Legal and physical persons using forests and forest resources or engaged in forestry activities, as well as the Patriarchy of Georgia, are deemed to be subjects of relationships along with the State.

Forests are divided into the following categories according their institutional management: a) protected areas of State forests, covering territories specified by the Law on Protected Area System; b) State forestry (managed by the State Department of forest

Management), which includes local forests. Protected areas of State Forests are regulated by the State Department of Protected Areas, Nature reserves and Hunting Farms; the State forestry, except local forests by the SDFM, and the local forests by local authorities through the relevant services.

Main goals of the "Forest Code of Georgia" are: protecting human rights and law enforcement in the field of forest relations; conducting forest tending, protection, and restoration with the purpose of conserving and improving climate-regulating, recreational, and other useful natural and cultural environment and its specific components- flora and fauna, biodiversity, landscape, cultural and natural monuments located in forests, rare and endangered plant species; regulating of harmonized interrelations between these components; setting rights and obligations of forest users in the field of forest relations, meeting environmental, economic, social, and cultural needs of population through providing access to the forest resources in the scope compatible with scientifically defined allowable norms; defining main principles of forest management.

International Agreements

Georgia accepts some international agreements and treaties concerning environmental protection. Among them is the Declaration on Forest Principles of Sustainable Development adopted at the United Nations Environmental Summit in Rio de Janeiro, 1992, which is supported by the Georgian law "On Environmental Protection". Other International Agreements related to the environment are shown on Table 3.

Table 3: International Agreements Related to the Environment	Year
Convention on Wetlands of International Importance (Ramsar Convention)	1971
Protocol and Amendment to the convention	1982
Convention International Trade in Endangered Species of Wild Fauna and Flora (CITES)	1973
Convention on the Conservation of European Wildlife and Natural Habitats (Bern Convention), (acceded but not yet ratified)	1979
Convention on Biodiversity	1992
United Nations Framework Convention on Climate change	1992
Convention on Combating Desertification	1994

Enforcement Regulations

Given the situation of low institutional capacity, incomplete enforcement regulations constitute an important obstacle for the implementation of existing laws.

- Law on Environmental Protection: There are no rules for drawing of the Red list and the Red Data Book of Georgia. As a consequence, no updated Red List and no RDB exist. A RDB dating from the Soviet period is sometimes mentioned in reports, but its validity is doubtful.
- Forest Code: It should be noted, that the President and the Chairman of the SDFM have issued some forestry-related regulations, which are not provided for in the forest Code.

After its enactment, some old forestry-related regulations were cancelled, but the Forest Code is de facto not effective because more than half of the regulations needed for its implementation have not been issued. The validity of regulations issued during the Soviet period is not clear. The law says nothing about abrogation of these regulations, however the use of these regulations is doubtful from the legislative point of view. In general, the legislative bases for forest management and protection in not yet sufficient in Georgia and needs further improvement.

FOREST LEGISLATION IN THE FEDERAL REPUBLIC OF GERMANY

BY HANS-WALTER ROERING

The federal structure of forest legislation in Germany

The Federal Republic of Germany is a federal state. That means that in Germany several states have contracted an alliance in a way, that the member states (Laender) have transferred parts of their sovereignty on the central state; thereby state quality has not only the central state but also the 16 Laender (MANTEL 1984). This federal structure has consequences for the forest sector and for forest legislation in Germany.

The respective legislative power is shared between the Federation and the Laender. The rules for it are seated in the Fundamental Act (Grundgesetz) in the Articles 70 to 82. With regard to the legislative power one has to distinguish:

- 1) The exclusive legislative power of the Federation (Art. 71, 73 Fundamental Act, *Figure 1*)
- 2) The concurrent legislative power (Art. 72, 74, 74a Fundamental Act); the competency of the Laender exists as long and as far as the Federation doesn't make use of its legislation right. If the Federation uses its right the Federal law breaks the law of the Laender (*Figure 2*).
- 3) The "framework" legislation of the Federation (Article 75 Fundamental Act); in this case federal acts have to leave a free space for the legislation of the Laender, which fill the frame with their special regulations (*Figure 3*).
- 4) The legislative power of the Laender which exists as long as the Federal level has not constitutional competencies according to 1) – 3) (*Figure 4*).

Figure 1: Examples for the exclusive legislative power of the Federation (according to Art. 71, 73 GG):

- Foreign affairs,
- defense,
- currency,
- weights and measures,
- unity of the customs and trading area, treaties respecting commerce and navigation, the free movement of goods,
- the exchange of goods and payments with foreign countries,
- citizenship in the Federation,
- immigration, emigration,
- passports,
- air transport,
- postal and telecommunication services,
- industrial property rights, copyrights, and publishing.

Figure 2: Examples for concurrent legislative power (according to Art. 72, 74, 74a GG)

- civil law,
- criminal law,
- court organization and procedure
- registration of births, deaths, and marriages,
- the law of association and assembly,
- the law relating to residence and establishment of aliens,
- public welfare,
- the law relating to economic affairs, prevention of the abuse of economic power

- the law relating to weapons and explosives,
- labor law,
- the production and utilization of nuclear energy for peaceful purposes,
- the promotion of agricultural production and forestry,
- protective measures in connection with marketing of food, drink, and tobacco, essential commodities, feed stuffs, agricultural and forest seeds and seedlings, and protection of plants against diseases and pests, as well as the protection of animals,
- real estate transactions and land law,
- the law of road traffic, as well as inland, coastal and maritime shipping,
- waste disposal, air pollution control, noise abatement,
- health care,
- the law of public service who stand in a relationship of service and loyalty defined by public law.

Figure 3: Examples for the federal framework legislation (according to Art. 75 GG)

- general principles respecting higher education,
- the legal relations of persons in the public service, insofar as Article 74a does not otherwise provide,
- the general legal relations of the press,
- hunting, nature conservation, and landscape management,
- land distribution, regional planning, and the management of water resources,
- matters relating to the registration of residence or domicile and to identity cards

Figure 4: Examples for the legislative power of the Laender

- the law of municipal government,
- the law of culture and education,
- the police law

Constitutional Competences in Forestry Matters

For Forestry in Germany it means, that according to Article 75, No. 3+4 Fundamental Act the Federation has the “framework” legislative power for the field of protection and recreation functions of the forests and the concurrent legislative power for all the other fields of forestry (Art. 74 (1), no. 1, 17, 18 Fundamental Act).

Consequently the most important act on federal level, the Federal Forest Act, is based on two different constitutional basics. It contains both framework provisions to be specified by the Laender and in the course of concurrent legislation as well as directly applicable provisions. The constitutional basics for the most important regulations of the Federal Forest Law are presented in *Figure 5*. This complex distribution of legislative power is simplified by Art. 5 of the Federal Forest Act, which provides that for Art. 6 to Art. 14 the federation claims only the framework legislative power.

Purpose and essential elements of the Federal Forest Act

The purpose of the Federal Forest Act is described in Art. 1 of the Federal Forest Law. It determines as the purpose of the law:

1. to conserve forests due to their economic benefits (productive function) and their importance for the environment and the recreation of the population (protective and recreational functions), to expand them, wherever possible, and to ensure their proper management on a sustainable basis, whilst promoting the forestry sector and reconciling public interests and the concerns of forest owners,

2. to promote forestry,
3. and to bring about a balance between the interests of the general public and the interests of forest owners.

Figure 5: Constitutional foundation for several regulations of the Federal Forest Law

§§	Content	Legal foundation in GG	Legislative power
§ 1	Purpose of the act	Art. 74, no. 14+17, Art. 75 (1), no. 3	concurrent legislation, framework legislation
§ 2	Forest	Art. 74, no. 17+18	concurrent legislation
§ 3	Forms of forest ownership	Art. 74, no. 1	concurrent legislation
§ 4	Forest owners	Art. 74, no. 1	concurrent legislation
§ 6	Tasks and fundamentals of forestry framework planning	Art. 75 (1), no. 3+4	framework legislation
§ 7	Forestry framework plan	Art. 75 (1), no. 3+4	framework legislation
§ 8	Conserving functions of forests in planning and measures of carriers for public projects	Art. 75 (1), no. 3	framework legislation
§ 9	Forest conservation	Art. 75 (1), no. 3	framework legislation
§ 10	Afforestation	Art. 75 (1), no. 3	framework legislation
§ 11	Management of forests	Art. 74, no. 17+18	concurrent legislation (durch § 5 framework legislation)
§ 12	Protection forests	Art. 75 (1), no. 3	framework legislation
§ 14	Entering the forests	Art. 74, no. 17+18	concurrent legislation (durch § 5 framework legislation)
§§ 15-40	Forest cooperatives	Art. 74, no. 17	concurrent legislation
§ 41	Promotion of forestry	Art. 74, no. 17	concurrent legislation
§ 41a	Federal forest inventory	Art. 74, no. 17	concurrent legislation
§ 44	General Administrative Regulations	Art. 84 (2)	

Source: KLOSE *et al.* 1998

Among other things the Federal Forest Act contains the following essential elements (*Figure 5*):

- The general order for proper and sustainable forest management (Art. 1 and 11 Federal Forest Act).
- The obligation for reforestation (Art. 11 Federal Forest Act); it regulates in conjunction with the forest acts of the Laender the minimum obligation for the forest owners, to reforest or complete clear cut forest land and lightened forest stands in a adequate time limit, if the natural regeneration remains incomplete. In the forest acts of the Laender the adequate time limit was appointed different, normally on 2-3 years. Further regulations in the forest acts of the Laender according forest management are aimed at environmental precautions, clear cutting restrictions, protection of premature stands, duty for tendency of forests, forest opening, and appropriateness and orderliness of forest management.
- The reservation of permitting the conversion of forests (Art. 9 Federal Forest Act); accordingly forests are only cleared and transformed into another land use form after permission by authority responsible by law of the Laender. The rights, duties and interests

of the forest owners are weighted against the needs of the general public. The permission will be denied, if the conservation of the forests is predominantly in public interest. The regulations of the Federal Forest Act can be expanded by the Laender.

- The promotion of forestry (Art. 41 Federal Forest Act); the promotion especially shall improve the efficiency of sustainable forest management and ensure the conservation of forests.
- The overall planning for forestry (Art. 6 Federal Forest Act); it shall order and improve forest structure and conserve the functions of the forests.
- Protective and recreational forests (Art. 12 and 13 Federal Forest Act); for conserving of special forest functions and for averting dangers, disadvantages, and annoyances of the population forests can be declared to protection or recreational forest with special provisions for forest management.

Special fields are governed by special acts such as:

- the Act on Forest Propagation Material,
- the Forest Damage Compensation Act,
- the Forestry Sales Fund Act and
- the Act on Classification Scales for Raw Timber.

In addition, there are a number of other acts relevant in the present context such as e.g. the nature conservation act and the hunting act of the Federal Government and of the Laender.

The actual discussion on “good professional practice” in forestry in Germany

Since beginning of the nineties activities exist to replace the undefined legal term of “proper agriculture and forestry”, used in the so called “agricultural clause” of the German Nature Protection Acts, with the term of the “good professional practice”. This term was an attempted rescue against the practice of the stakeholders of nature protection, to fill up the term of “proper agriculture and forestry” with more and more claims (GIESEN 2003). This new term should conserve what originally was the meaning of the term “proper” too; namely to refer to the common practice in agriculture and forestry. But the stakeholders of nature protection quickly picked up this new term and attempt now to transform this description in a legal term. This for the first time occurs for agriculture in the Federal Soil Protection Act of 1998. In the Art. 17 there are defined the principles for a “good professional practice” in the agricultural soil management. But in this connection forestry doesn’t be noted. The consequence is that the identical term of the “good professional practice” has a different function in agriculture and in forestry. While in the field of agriculture as consequence of Art. 17 Federal Soil Protection Act this new term is executed, in forestry this item doesn’t represent a legal term. These systematic were also retained in the Federal Nature Protection Act in 2002. There the principles for a “good professional practice” in agriculture are defined in Art. 5 par. 4; for the forest sector, entered in Art. 5. par. 5, such principles are missing. Therefore the current topic differs from the former discussion on the term “proper”, where the combined formulation from the “proper agriculture and forestry” used at that time in the Nature Protection Acts yielded the result to give the term “proper” in agricultural and forest sector the same content (GIESEN 2003).

In 2002 the Federal Agency for Nature Conservation (Bundesamt für Naturschutz) awarded a contract to the Institute of Forest Policy of the University of Freiburg to furnish an expert opinion on the term of the “good professional practice” in forestry. The aim of this contract was to predetermine possible principles in the forest sector. This actually resulted in an intense discussion in Germany. Especially the forest owners refuse this expert opinion, first of all the methodology is criticized. In this expert opinion 17 principles of a “good

professional practice” in forestry are formulated and their implementation in forest legislation is advised.

In addition to the content of the expert opinion still other questions are discussed intensely, such as:

- Is Art. 5 par. 5 Federal Protection Act a legal frame for a definition of the “good professional practice” in forestry?
- Is there a statutory duty to define the term “good professional practice” in forestry by the legislation of the Laender as consequence of the Federal Nature Protection Act?
- Is a definition of the term “good professional practice” in forestry generally desirable?

The discussions aren't finished for a long time yet.

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DIE FORSTGESETZGEBUNG IN DER BUNDESREPUBLIK DEUTSCHLAND

HANS-WALTER ROERING

Die föderale Struktur der Forstgesetzgebung in Deutschland

Die Bundesrepublik Deutschland ist ein föderaler bzw. ein Bundesstaat. Dies heißt, in Deutschland sind mehrere Staaten in der Weise eine Verbindung eingegangen, dass die Gliedstaaten (Bundesländer) Teile ihrer Souveränität auf den Zentralstaat übertragen haben; Staatsqualität haben dabei nicht nur der Zentralstaat, sondern auch die 16 Bundesländer (MANTEL 1984). Diese föderale Struktur Deutschlands hat Auswirkungen auf den Forstsektor und damit auch auf die Forstgesetzgebung.

Die jeweiligen Gesetzgebungsbefugnisse sind in Deutschland zwischen Bund und Ländern verteilt; die hierfür notwendigen Regeln sind im Grundgesetz in den Artikeln 70 bis 82 verankert. In der Zuständigkeitsverteilung bei der Gesetzgebungsbefugnis unterscheidet man:

a) die ausschließliche Gesetzgebungskompetenz des Bundes (Art. 71, 73 GG, *Abbildung 1*)

b) die konkurrierende Gesetzgebungskompetenz (Art. 72, 74, 74a GG), bei der die Länder die Zuständigkeit haben, so lange und so weit der Bund von seinem Gesetzgebungsrecht keinen Gebrauch macht. Tut er dies aber, so gilt: Bundesrecht bricht Landesrecht (*Abbildung 2*)

c) die Rahmengesetzgebung des Bundes (Art. 75 GG). Hier hat der Bund im Falle des Bedürfnisses nur die „Grundsatzgesetzgebung“; die Bundesgesetze müssen also Raum lassen für die Landesgesetze, die den Rahmen mit ihren landesspezifischen Besonderheiten ausfüllen (*Abbildung 3*)

d) die Gesetzgebungskompetenz der Länder, soweit nicht der Bund nach a) – c) zuständig ist (*Abbildung 4*).

ABBILDUNG 1: BEISPIELE FÜR DIE AUSSCHLIEßLICHE GESETZGEBUNGSKOMPETENZ DES BUNDES (NACH ART. 71, 73 GG)

- Auswärtige Angelegenheiten,
- Verteidigung,
- Währung,
- Maße und Gewichte,
- Staatsangehörigkeitsrecht,
- Einwanderungsrecht,
- das Passwesen,
- der Luftverkehr,
- Postwesen, Telekommunikation
- Gewerblicher Rechtsschutz, Urheberrecht, Verlagsrecht

ABBILDUNG 2: BEISPIELE FÜR KONKURRIERENDE GESETZGEBUNG (NACH ART. 72, 74, 74A GG)

- das bürgerliche Recht,
- Personenstandswesen,
- Vereins- und Versammlungsrecht,
- Aufenthalts- und Niederlassungsrecht für Ausländer,

- öffentliche Fürsorge,
- Wirtschafts- und Kartellrecht,
- das Strafrecht,
- das Waffen- und Sprengstoffrecht,
- das Arbeitsrecht,
- die Förderung der land- und forstwirtschaftlichen Erzeugnisse,
- Verbraucherschutz, Schutz von land- und forstwirtschaftlichem Saatgut
- das Grundstücksverkehrs- und das Bodenrecht,
- der Straßenverkehrs-, Binnenschiffahrts- und Hochseeschiffahrtsrecht
- die Abfallbeseitigung,
- das Gesundheitswesen,
- das Beamtenrecht

ABBILDUNG 3: BEISPIELE FÜR DIE RAHMENGESETZGEBUNGSKOMPETENZ DES BUNDES (NACH ART. 75 GG)

- Hochschulwesen,
- Rechte für die nicht verbeamteten Beschäftigten im öffentlichen Dienst,
- Rechtsverhältnisse der Presse,
- Jagdrecht, Naturschutzrecht, Landschaftspflegerecht
- Bodenverteilung, Raumordnung, Wasserrecht
- Melde- und Ausweiswesen

ABBILDUNG 4: BEISPIELE FÜR DIE GESETZGEBUNGSKOMPETENZ DER LÄNDER

- Kommunalwesen,
- Kulturwesen,
- Polizeiwesen

Verfassungsrechtliche Kompetenzen im Forstwesen

Für den Forstsektor bedeutet dies, dass der Bund nach Art. 75, Nr. 3+4 für den Bereich der Schutz- und Erholungsfunktion des Waldes die Kompetenz der Rahmengesetzgebung besitzt, für alle übrigen Bereiche die der konkurrierenden Gesetzgebung (Art 74, Abs. 1, Nr. 1, 17, 18 und 24 GG).

Damit basiert auch für das wichtigste Forstgesetz auf Bundesebene, das Bundeswaldgesetz (BWaldG) auf diesen zwei unterschiedlichen Verfassungsgrundlagen. Es enthält also sowohl rahmenrechtliche sowie im Zuge der konkurrierenden Gesetzgebung auch unmittelbar geltende Vorschriften. Die jeweiligen Verfassungsgrundlagen für die wichtigsten Vorschriften des BWaldG sind in *Abbildung 5* dargestellt. Diese komplizierte Verteilung der Gesetzgebungskompetenzen wurde allerdings durch § 5 des BWaldG vereinfacht, der besagt, dass für die §§ 6 bis 14 der Bund nur die Rahmengesetzgebung beansprucht.

Der Zweck des BWaldG wird in § 1 dargestellt und beinhaltet: den Wald wegen seines wirtschaftlichen Nutzens (Nutzfunktion) und wegen seiner Bedeutung für die Umwelt und die Erholung der Bevölkerung (Schutz- und Erholungsfunktion) zu erhalten, erforderlichenfalls zu mehren und seine ordnungsgemäße Bewirtschaftung nachhaltig zu sichern, die Forstwirtschaft zu fördern und einen Ausgleich zwischen dem Interesse der Allgemeinheit und den Belangen der Waldbesitzer herbeizuführen.

Das Bundeswaldgesetz umfasst u.a. folgende wesentliche Elemente:

Den generellen Auftrag, Wald ordnungsgemäß und nachhaltig zu bewirtschaften (§§ 1 und 11 BWaldG).

Das Wiederaufforstungsgebot (§ 11 BWaldG): Es regelt in Verbindung mit den jeweiligen Landesgesetzen die Mindestverpflichtung für alle Waldbesitzer, kahlgeschlagene Waldflächen und verlichtete Waldbestände in angemessener Frist wieder aufzuforsten oder zu ergänzen, soweit die natürliche Wiederbestockung unvollständig bleibt. In den Landeswaldgesetzen wurde die angemessene Frist unterschiedlich, in der Regel auf 2-3 Jahre, festgesetzt. Weitere Vorschriften in den Landeswaldgesetzen zur Waldbewirtschaftung richten sich auf Umweltvorsorge, Kahlhiebsbeschränkungen, Schutz hiebsunreifer Bestände, Pflegepflicht und Walderschließung, Sachgemäßheit und Planmäßigkeit der Waldbewirtschaftung

Den Umwandlungsgenehmigungsvorbehalt (§ 9 BWaldG): Danach darf Wald nur mit Genehmigung der nach Landesrecht zuständigen Behörde gerodet und in eine andere Nutzungsart umgewandelt werden. Hierfür müssen Rechte, Pflichten sowie Interessen des Waldbesitzers gegen die Belange der Allgemeinheit abgewogen werden. Die Genehmigung wird versagt, wenn die Erhaltung des Waldes überwiegend im öffentlichen Interesse liegt, insbesondere wenn der Wald für die Leistungsfähigkeit des Naturhaushaltes, die forstwirtschaftliche Erzeugung oder die Erholung der Bevölkerung von wesentlicher Bedeutung ist. Die Bestimmungen des BWaldG können durch die Länder erweitert werden.

Die Förderung (§§ 41-43 BWaldG): Die Förderung soll insbesondere die Wirtschaftlichkeit der nachhaltigen Waldbewirtschaftung verbessern und die Erhaltung des Waldes gewährleisten.

Die Forstliche Rahmenplanung (§§ 6-8 BWaldG): Sie dient der Ordnung und Verbesserung der Forststruktur und ist darauf gerichtet, die Funktionen des Waldes zu sichern.

Schutzwald und Erholungswald (§§ 12+13 BWaldG): Wald kann zur Sicherung spezieller Waldfunktionen und zur Abwehr von Gefahren, Nachteilen und Belästigungen der Bevölkerung zu Schutz- oder Erholungswald erklärt werden, mit bestimmten Vorschriften für forstliche Bewirtschaftungsmaßnahmen.

Besondere Bereiche im Forstsektor werden durch Spezialgesetze behandelt, z.B. das Forstvermehrungsgutgesetz, - das Forstschäden-Ausgleichsgesetz, das Holzabsatzfondsgesetz, und das Gesetz über gesetzliche Handelsklassen für Rohholz. Neben diesen Spezialgesetzen gibt es noch eine Reihe weiterer rechtlicher Grundlagen, wie z.B. die Naturschutzgesetze des Bundes und der Länder sowie die Jagdgesetze des Bundes und der Länder.

DIE AKTUELLE DISKUSSION UM DIE „GUTE FACHLICHE PRAXIS“ IN DEUTSCHLAND

Seit Beginn der neunziger Jahre gibt es Bestrebungen, den in der Landwirtschaftsklausel des Bundesnaturschutzgesetzes und der Landesnaturschutzgesetze verwendeten unbestimmten Rechtsbegriff „ordnungsgemäße Land- und Forstwirtschaft“ durch die Formulierung von der „guten fachlichen Praxis“ zu ersetzen. Dieser Begriff sollte als Rettungsversuch gegen die Praxis der Interessenvertreter des Naturschutzes dienen, den Begriff von der „ordnungsgemäßen Land- und Forstwirtschaft mit immer weitergehenden Forderungen aufzufüllen (GIESEN 2003).

Die neue Formulierung sollte das erhalten, was ursprünglich auch mit dem Begriff „ordnungsgemäß“ verbunden war; nämlich auf die alltägliche Praxis im land- und forstwirtschaftlichen Bereich zu verweisen. Doch die Interessenvertreter des Naturschutzes griffen diesen neuen Begriff schnell auf und versuchten und versuchen nun aus dieser Beschreibung einen Rechtsbegriff zu machen. Dies erfolgte für die Landwirtschaft zum

erstmals im Bundesbodenschutzgesetz (BBodSchG) von 1998. Dort sind in § 17 die Grundsätze für eine „gute fachliche Praxis“ in der landwirtschaftlichen Bodennutzung festgelegt. Die Forstwirtschaft wird jedoch in diesem Zusammenhang nicht erwähnt.

ABBILDUNG 5: VERFASSUNGSGRUNDLAGEN FÜR EINZELNE RECHTSVORSCHRIFTEN DES BUNDESWALDGESETZES

§§	Inhalt	Grundlage im GG	Gesetzgebungskompetenz
§ 1	Gesetzeszweck	Art. 74, Nr. 14+17, Art. 75 (1), Nr. 3	konkurrierende Gesetzgebung, Rahmengesetzgebung
§ 2	Wald	Art. 74, Nr. 17+18	konkurrierende Gesetzgebung
§ 3	Waldeigentumsarten	Art. 74, Nr. 1	konkurrierende Gesetzgebung
§ 4	Waldbesitzer	Art. 74, Nr. 1	konkurrierende Gesetzgebung
§ 6	Aufgaben und Grundsätze der forstlichen Rahmenplanung	Art. 75 (1), Nr. 3+4	Rahmengesetzgebung
§ 7	Forstliche Rahmenpläne	Art. 75 (1), Nr. 3+4	Rahmengesetzgebung
§ 8	Sicherung der Funktionen des Waldes bei Planungen und Maßnahmen von Trägern öffentlicher Vorhaben	Art. 75 (1), Nr. 3	Rahmengesetzgebung
§ 9	Erhaltung des Waldes	Art. 75 (1), Nr. 3	Rahmengesetzgebung
§ 10	Erstaufforstung	Art. 75 (1), Nr. 3	Rahmengesetzgebung
§ 11	Bewirtschaftung des Waldes	Art. 74, Nr. 17+18	konkurrierende Gesetzgebung (durch § 5 Rahmengesetzgebung)
§ 12	Schutzwald	Art. 75 (1), Nr. 3	Rahmengesetzgebung
§ 14	Betreten des Waldes	Art. 74, Nr. 17+18	konkurrierende Gesetzgebung (durch § 5 Rahmengesetzgebung)
§§ 15-40	Forstwirtschaftliche Zusammenschlüsse	Art. 74, Nr. 17	konkurrierende Gesetzgebung
§ 41	Förderung	Art. 74, Nr. 17	konkurrierende Gesetzgebung
§ 41a	Bundeswaldinventur	Art. 74, Nr. 17	konkurrierende Gesetzgebung
§ 44	Allgemeine Verwaltungsvorschriften	Art. 84, Abs. 2	

QUELLE: KLOSE ET AL. 1998

Das hat dazu geführt, dass der gleichlautende Begriff „gute fachliche Praxis“ in der Landwirtschaft und im Forstsektor eine unterschiedliche Funktion ausübt. Während im Bereich der Landwirtschaft der neue Begriff durch § 17 BBodSchG rechtsgültig geworden ist, stellt diese Formel im Forstsektor noch keinen Rechtsbegriff dar. Diese Systematik wurde auch im neuen Bundesnaturschutzgesetz aus dem Jahre 2002 beibehalten. Während dort in § 5 Abs. 4 die Grundsätze für die „gute fachliche Praxis“ in der Landwirtschaft festgelegt sind, fehlt für die in § 5 Abs. 5 behandelte Forstwirtschaft eine derartige Regelung. Damit

unterscheidet sich die aktuelle Thematik von den früheren Diskussionen über den Begriff „ordnungsgemäß“, wo seinerzeit die in den Naturschutzgesetzen verwendete kombinierte Formulierung von der „ordnungsgemäßen Land- und Forstwirtschaft“ dazu geführt hat, dem Begriff „ordnungsgemäß“ im Landwirtschafts- und Forstbereich denselben Inhalt zu geben (GIESEN 2003).

Im Jahre 2002 gab nun das Bundesamt für Naturschutz ein Gutachten an das Institut für Forstpolitik der Universität Freiburg (VOLZ et al. 2002) in Auftrag mit dem Ziel, nun auch im Forstbereich mögliche Definitionen zu präjudizieren. Dies hat in Deutschland aktuell zu einer sehr heftigen Diskussion geführt. Vor allem von den Waldbesitzern wird das Gutachten mehrheitlich abgelehnt; insbesondere die Methodik wird scharf kritisiert. In diesem Gutachten werden 17 Kriterien der „guten fachlichen Praxis“ in der Forstwirtschaft formuliert und deren Umsetzung in die forstliche Gesetzgebung empfohlen. Neben dem Inhalt des Gutachtens werden vor allem noch weitere Fragen heftig diskutiert, wie z.B.:

- Stellt § 5 Abs. 5 BNatSchG einen Rahmen für eine Definition des Begriffes „gute fachliche Praxis“ in der Forstwirtschaft dar?
- Besteht durch BNatSchG eine Rechtspflicht zur Definition des Begriffes „gute fachliche Praxis“ in der Forstwirtschaft durch die Landesgesetzgeber?
- Ist eine Definition des Begriffes „gute fachliche Praxis“ in der Forstwirtschaft überhaupt wünschenswert?

Die Diskussionen sind noch lange nicht abgeschlossen.

Literatur:

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PARTICIPATION RIGHTS OF AND COMPENSATION TO PRIVATE FOREST OWNERS IN THE FIELD OF ENVIRONMENTAL LAW IN GERMANY

BY STEFAN WAGNER

Constitutional Provisions

Private property in Germany is a strictly protected constitutional right, guaranteed under Article 14 of the German Constitution. The protection comprises all property assets, whereas their subject matter and the limits are defined by the laws. Legislative authorities are obliged to undertake comprehensive consideration of values when redefining rules and regulations concerning or affecting property rights. The principle of the proprietor's social responsibility must be balanced against his right to make free use of his assets as well as his right to continue this use as long as it has been legally established. The main principle to be heeded is the principle of commensurability: all legal provisions must at all times be suitable, the least intrusive means and generally proportionate with respect to the intended objective. All legal actions and measures must be just, reasonable and proportionate in each particular case. Legislation must ensure that individual legal positions will appropriately be considered in the execution of the laws, e.g. by means of possible exemptions or by compensation (1).

Real estate has always been subject to more extensive restrictions than moveable assets. The owner of real estate is liable to greater social responsibility based on the fact that there exist only a limited amount of real estate. The degree of the owner's social liability depends on the situation and the conditions of the premises (2). Restrictions of utilization for example are generally based upon the ecological setting, which is a matter of the site's situation. Other relevant aspects of situation are the previous and the possible future mode of utilization of the land (3).

Under the German constitution, the right to property is mainly designed as a means of protection against government restrictions. Its denotation for compensation payments is only secondary. However, this structure has lately been loosened by recent legislative acts: The latest environmental protection laws tend to comprise comprehensive compensation regulations which clearly transcend traditional equity provisions for exceptional cases of hardship (4). Additionally, recent decisions of the German Supreme Court reveal a change of understanding: Monetary compensation is no longer just the last resort - quite the contrary. The Court has even ordered legislation to precisely define by law which kind of restrictions must lead to compensation measures (5).

Legal Provisions Referring to Forest Property

Not only the forest laws, but also recent environment protection laws comprise a large number of rules and regulations relevant to forestry. Besides the prescription of degradation and severe impairment - e.g. of protected habitats under national law or special protection areas under the European law (6) - they mainly comprehend powers of authority for the administration to pass executive order laws for the implementation of environment protection objectives, e.g. to set up nature conservation or water protection areas (7). Additionally, they infer upon administrative authorities the right and the obligation to assess the compatibility of particular measures with the legal objectives of the corresponding environment protection laws before giving approval to those measures (8).

The standardizing body as such is nothing new, but the number of national environment protection laws has greatly increased so that protection objectives have been extended, too. Examples given are nature conservation and water and soil protection laws. The revaluation and expansion of environment protection regulations has significantly been

influenced by European law which has for several years aimed to increase ecological protection standards in the European Union (9).

For example, forestry is greatly affected by the establishment of the European ecological network of special areas of conservation (which shall be set up under the name of Natura 2000), especially by the implementation of the Habitats Directive (10) and the Wild Birds Directive (11), due to the fact that a large part of the habitats to be set aside are forest lands. Another aspect are the multidisciplinary and integrative programs and projects in the European Union. They imply yet more restrictions with regard to the implementation of the European Directive on the Assessment of the Effects of Certain Projects on the Environment (12) and the European Directive on the Assessment of the Effects of Certain Plans and Programs on the Environment (13) which just recently entered into effect. All these activities are based on and influenced by the efforts of the European Union to strengthen the biodiversity in the European forests.

Admissibility and Limits of Provisions Referring to Forest Property

Federal legislation as well as administrative and executive authorities bears great responsibility to confine or even prevent conflicts between the forest owners' freedom rights on the one hand and society's claims regarding the utilization of forests on the other. Therefore, in Germany, mandatory regulations of forest property are admissible only under the following premises:

- There must be proof that the area or habitat in question is worth and in need of protection,
- the regulation must be suitable as well as necessary to attain the nature conservation objectives it aims for,
- and the inflicted measures must be just and reasonable, esp. economically, and in proportion to their objectives (14).

Therefore, all interests and concerns must be comprehensively considered within an assessment and appreciation of values which must follow certain guidelines (15):

Limits to the Balancing of Interests

The first relevant question is whether the utilization in question is already in effect and therefore protected under the principle of continuance, or whether it is just a possible future form of utilization. All assets which have been legally established in the past are protected under the right to property and may not be interfered with without the proprietor's consent (16). This results in the following consequences:

It is indisputable that the previous utilization of forest lands including proper cultivation measures is protected as a vested right under the German Constitution (17). For example, a legally established stand of spruces cannot be ordered to be converted or harvested before maturity, even if it is set in a nature conservation area such as a special protection area under the Habitats Directive. After the final cutting it is also admissible to continue with the silvicultural utilization of the land - again, as a result of the principle of protection of vested rights. And even though the right to property does generally entitle the owner to use his lands in the economically most advantageous way, it still protects the asset of the forest holding as an established forest enterprise. It is the prevailing adjudication of the German courts that the right to property will always be affected when governmental restrictions threaten to bereave the forest lands of their economic capacity. The owner does not have to accept such restrictions, he has the constitutional right to draw profit from his property (18).

Reciprocally, qualitative changes or special extensions of utilization are not covered under the protection of vested rights. Therefore, it is generally admissible to determine and restrict the extent of utilization to its current status quo (19). It is doubtful; however, how to define what is to be meant by qualitative changes of cultivation. Certainly afforestation and

deforestation, which result in a completely different way of land use, may be restricted. The forest laws therefore rule that both measures are subject to approval. Other cultivation measures concerning rather details and methods are treated differently. They are generally admissible under the forest laws, with the exception of clear-cutting which must also be licensed by authority in some of the German federal states. They may be prescribed in well-founded cases (e.g. protected forest areas). Whenever other cultivation methods, such as continuous planting of young trees suited to the site in older stands, are interdicted for imperative reasons of nature conservation, the forest owner is entitled to monetary compensation.

Accordingly, the duration of protected continuance for a forest stand depends on the regeneration method. Where clear-cutting is involved, the legal protection of the established composition of tree species expires at the instance of felling (not, however, the protection of continued silvicultural utilization and the right to establish a new forest stand). Regeneration methods that concentrate on small-area and natural rejuvenation generally profit from continued protection of all consistent and consequential methods of cultivation. The constitutional right to property therefore grants its protection to all assets that are already in existence in the forest stands and to all that evolves of them. This is particularly true for all silvicultural methods which operate on small areas and by the use of natural rejuvenation (20).

Directions for the Balancing of Interests

Since statutory definitions of the contents of the right to property can only determine the owner's rights and obligations in a general and abstract manner, the balancing of interests must focus on the following aspects: In personal respect, the balancing must refer to the average representative of the group of proprietors concerned by the particular act (21). In material respect, it must concentrate on the individual asset in question (22). The particular laws and statutes offer typed legal criteria for the balancing of interests. E.g. nature conservation law distinguishes between directions for all areas and for special protection areas. They also provide for special rules and regulations pertaining to the protection of specific species and habitats.

When enforcing such statutory regulations, the scrutiny of the act's commensurability must generally be performed in an individual and concrete rather than in a generalized and abstract manner. The proportionality of environmental protection measures is primarily determined by the remaining value of the property. The decisive criterion is the remaining utilization potential of the area in question, not the forest owner's financial standing (23). Thus, the previous cultivation methods, the yield obtained and the aimed for utilization objectives must be taken into consideration.

Apart from the above, real estate is always also an integral part of the established forest enterprise which is also protected under the constitutional right to property (24). If, for example, a piece of land is declared protected area, this declaration's impact on the entire enterprise is decisive for its legitimacy under the constitution. The enterprise's profitability and general management objectives are therefore relevant criteria as well. Another aspect is the accumulation of interference, i.e., restrictions on property which – if looked at separately – may seem to involve only insignificant impositions. If, however, looked at in total, they may add up to an excessive strain on the proprietor. Therefore, authorities must scrutinize the consequences of any additional interference before giving permission (25).

Quite differently, property is relatively unharmed against cease and desist orders that aim to sustain an existing condition by ordering the owner to tolerate interfering measures, whereas the undertaking of specific cultivation measures to sustain a particular existing natural condition cannot generally be imposed on the proprietor. He can, however, be obliged to endure them. It should be relatively easy to fend off, as an owner, the obligation to

undertake specific cultivation measures in order to alter an existing condition or to suffer their being performed by others (e.g. the conversion of traditional forest stands into stands of the potentially natural vegetation) (26).

Statutory Directives

The German Federal Forest Act and the forest laws passed by the federal states of Germany provide the statutory framework for the utilization of the forests. Their objective is to lead the road to a social forest policy on the basis of a liberal economy system. This calls for a true reconciliation of interests between the general public and the forest owners. Hence, the forest laws include valuations (e.g. for afforestation, forest road construction and cuttings) which must be considered in the decision making processes (27).

As far as nature conservation requirements on forest utilization are concerned, the nature conservation laws comprise further criteria, partly based on cross-references in the forest laws. There is one basic principle which is pivotal: The particular importance of forestry for the conservation of the cultural landscape and its recreation potential. This principle guarantees that sustainable management of forests must be allowed for whenever nature and landscape conservation measures are in question. The principle of forestry's ecological importance includes the imperative to minimize conflicts for the benefit of due sustainable forestry (28).

Cooperation and Rewards

While the above mentioned principles provide that forest property is protected from too extensive state interference, there are further demands for a reconciliation of diverging interests of the public and the owners pertaining to the cultivation of forests, which are due to the great constitutional significance of property in Germany.

Participation Rights

The main objective of the right to property is to enable each individual to a self dependent life (29). It is, therefore, mainly a freedom right which leads to particular political claims:

- Forest entrepreneurs should be empowered to pursue their individual objectives for sustainable forest management by the establishment of appropriate legal and economical basic conditions. Restrictions of the proprietor's authority due to other utilization claims should be limited to instances of essential public interest only. In order to compensate for resulting financial disadvantages a system of rewards should be developed.
- The forest owners should be granted adequate opportunity for participation in the run-up to public plans and projects that may have restrictive impact on the utilization of their lands (30). As far as legally possible, mandatory regulations should be substituted by contractual agreements with the proprietors (e.g. management planning by the forest owners in special protected areas under the European Habitats Directive).
- Public plans and projects which draw upon forests and/or forestry and which lead to increased recreational utilization of forests must ensure that they don't imply advanced liability risks for the forest owners. Regulations should be passed to limit the owners' liability, especially in order to resolve the problem of his liability for premises (31).
- Public plans and projects which draw upon forests and which are not justified by general public interests (e.g. granting a particular user group the right to enter certain areas otherwise restricted) should only be enforced with the owner's consent. On the other hand, forest owners should be authorized to allocate their lands to particular priority tasks, such as the setup of bridle paths and cycle tracks as long as no reasons

of common welfare are opposed (32). Thereby, the forest owners would be enabled to generate higher profits where common demands on specific merits of the forests relate to aspects that can be commercialized.

Forest Rewards Systems

For the sake of commensurability, mandatory regulations affecting forest property are admissible only when no other means are available to achieve the target ends. In all other cases cooperative instruments of action should be given priority, for reasons of law as well as acceptance. For instance, cultivation agreements could be concluded instead of administrative rulings. It is a demand of forest policy to devise a system of rewards which is suited to provide for adequate remuneration of the forest owner's contributions to general welfare (33):

- Legislation must ensure that all accomplishments which exceed the performance of good forestry practices are by law declared compensable and worthy of compensation. Additionally, legislation must enact adequate provisions for compensation payments, a rewards system, that needs to be developed in consensual agreement with all parties involved. In order to ensure legal certainty for the forest owners, they must be granted a legal claim and title to compensation under the statutory preconditions (34).
- The active performance of certain cultivation or utilization measures, the sufferance of their being performed by others, and the abandonment of certain cultivation measures all constitute forest accomplishments. Basic achievements accomplished by the forest owners for the sake of general social claims and public welfare must be compensable as well as specific measures on the grounds of accordant agreements or statutory requirements.
- In consideration of recent rulings of the German Supreme Court, it is essential and indispensable that the statutory regulations precisely determine the legal requirements for monetary compensation of forest accomplishments (35). As far as authorities order certain measures to be performed, they must at the same time also rule if and to what extent compensation is to be granted to the forest owner (36).
- Even though municipal property is not protected under the German Constitution, it is generally recognized that municipalities are not obliged to place their assets at the disposal of the state or other statutory bodies (37). Therefore, it should be made sure that municipalities owning forests will be declared addressees of a forest rewards system as well.
- Legislation is obliged to anchor a comprehensive forest rewards system within the framework of general forest advancement under the forest laws. With regard to cultivation measures based on nature conservation agreements it must particularly be considered that nature conservation laws explicitly allow for contributions by other authorities, such as forest agencies, to the implementation of nature conservation objectives by contractual agreements (38).

Forest Nature Conservation Agreements

The German nature conservation laws provide that the agencies in charge must employ instruments of participation, especially contractual agreements pursuing the objectives of nature protection and landscape conservation (39). Measures based upon such agreements may also be carried out by other authorities such as forest agencies. On these grounds it is the paramount challenge for forest policy to develop programs for forest nature conservation agreements under the following principles (40):

- Agreements are to give certainty; therefore, they should contain comprehensive arrangements. The contracting parties must be certain that apart from the contractual agreements no further nature conservation requirements will be imposed.
- As far as national or European protection areas are concerned, it should be taken care that the nature conservation agreements make dispensable any mandatory conservation measures. Additionally, the agreements should enumerate all possible legal consequences that otherwise would be contained in a protection ordinance (e.g. prescriptions of degradation and significant impairment, obligation to perform assessment of the effects of certain plans and programs). Only thus, by giving legal certainty, can acceptance be achieved among the forest owners as contracting parties.
- The conclusion of the contract must be based upon mutual freedom of contract. That is to say that the forest owner, being the future contractual partner, must be involved in the proceedings as early as possible so that there can be real contract negotiations as opposed to merely signing and accepting a contract decreed unilaterally by the authorities. Only thus will the forest owners be moved to conclude and implement nature conservation agreements in the first place.
- The conservation agreements must be cost-effective and profitable for the forest owners, which mean that the rewards granted must be proportional to the conditions agreed upon (41). Besides pecuniary benefits, other rewards may also be suitable: The renunciation of further mandatory regulations and administrative acts as well as a warranty of express treatment of certain applications may constitute adequate consideration just as well.

Conclusion

As in all democratic countries, the right to property in Germany is guaranteed priority protection under constitutional law. However, in view of the extensive political and social claims, forest property rights are likely to loose ground, as the profitable utilization of forests becomes more and more restricted by numerous requirements and regulations. However, German law provides sufficient means to fend off undue disproportionate claims, as well as it provides for adequate consideration of social claims and public objectives. A good mixture of sole responsibility and participation rights on the one hand and a proper rewards system on the other should enable forest owners to keep up the cultivation and utilization of their forests to the benefit of all.

Notes and References

(1) For details cf. Wagner/Jönsson, Einschränkung der Waldbewirtschaftung durch Naturschutzauflagen, Augsburg/Göttingen 2001, p. 25 et seq.

(2) E.g. Federal Supreme Civil Court (Bundesgerichtshof (BGH)), *Natur + Recht* (NuR) 1989, p. 407.

(3) E.g. Federal Supreme Administrative Court (Bundesverwaltungsgericht (BVerwG)), *Die öffentliche Verwaltung* (DÖV) 1993, p. 1091.

(4) E.g. § 10 Abs. 2 Federal Soil Protection Act (Bundes-Bodenschutzgesetz (BBodSchG)), § 3 b Federal Nature Conservation Act (Bundes-Naturschutzgesetz (BNatSchG)), § 19 Abs. 4 Federal Water Resources Act (Wasserhaushaltsgesetz (WHG)).

(5) Federal Constitutional Court (Bundesverfassungsgericht (BVerfG)), *Deutsches Verwaltungsblatt* (DVBl.) 1999, p. 698 et seq.; also cf. Batts, *Denkmalschutz und Eigentumsgarantie*, NuR 2000, p. 421 et seq.; Schmidt, *Die Aufopferung vermögenswerter Rechte*, *Neue Juristische Wochenschrift* (NJW) 1999, p. 2847 et seq.; Stürer/Thorand, *Abschied von salvatorischen Klauseln im Denkmal- und Naturschutzrecht*, NJW 2000, p. 3737 et seq.

(6) E.g. §§ 19 c, 20 c BNatSchG, Art. 6 FFH-RL.

- (7) E.g. §§ 12 et seq. BNatSchG, § 19 WHG.
- (8) E.g. § 8 BNatSchG, §§ 9, 10 Federal Forest Act (Bundes-Waldgesetz (BWaldG)).
- (9) Cf. Jans, *European Environmental Law*, 2nd ed., Groningen 2000, p. 2 et seq.
- (10) Dir. 92/43/EEC of 21.5.1992, Official Journal of the EC No L 206, p. 7 et seq.; with respect to the area of conflict between the protection of areas under the European Habitats Directive and forestry, cf. Christophersen, *Natura 2000 und Forstwirtschaft*, Augsburg 2001; Jünger, *Umsetzung und Vollzug der FFH-Richtlinie und deren Auswirkungen auf die Forstwirtschaft in Deutschland*, Dissertation Univ. Freiburg 2002.
- (11) Dir. 79/409/EEC of 2.4.1979, Official Journal of the EC No L 103, p. 1 et seq.
- (12) Dir. 85/337/EEC of 27.6.1985, Official Journal of the EC No L 175, p. 40 et seq.; Dir. 97/11/EC of 3.3.1997, Official Journal No L 73, p. 5 et seq.
- (13) Dir. 2001/42/EC of 27.6.2001, Official Journal of the EC No L 197, p. 30 et seq.
- (14) Cf. Wagner/Gundermann, *Gesetzliche Ausgleichszahlungen an Waldbesitzer zur Abgeltung von Belastungen durch Naturschutz und Wasserwirtschaft in der Bundesrepublik Deutschland*, *Forstwissenschaftliche Beiträge* 1996/16, Professur Forstpolitik und Forstökonomie, ETH Zürich, p. 305; Wagner/Gundermann, *Compensation Payments to Forest Owners for Nature and Water Protection Measures in the Federal Republic of Germany*, *ibid.*, p. 319.
- (15) Cf. Wagner/Gundermann, *ibid.*, p. 310 et seq., 323 et seq.
- (16) Isensee/Kirchhoff, *Handbuch des Staatsrechts*, vol. III, 1988, § 60 recital 45.
- (17) BVerfG, official register vol. 83, p. 205 et seq.; BVerwG, official register vol. 94, p. 5 et seq.
- (18) BVerwG, official register vol. 67, p. 97 et seq.
- (19) BGH, official register vol. 123, p. 245 et seq.
- (20) Bayer, *Forstwirtschaft und Naturschutz*, Dissertation Univ. Göttingen 1991, p. 140 et seq.
- (21) BVerfG, official register vol. 70, p. 84; vol. 71, p. 13.
- (22) Cf. Ehlers, *Eigentumsschutz, Sozialbindung und Enteignung bei der Nutzung von Boden und Umwelt*, *Veröffentlichung der Vereinigung Deutscher Staatsrechtslehrer (VVDStRL)* vol. 51, p. 228.
- (23) Moench, *Die Entwicklung des Denkmalschutzrechts*, *Neue Zeitschrift für Verwaltungsrecht (NVwZ)* 1988, p. 309.
- (24) BVerfG, *Gewerbearchiv (GewArch)* 1992, p. 21 et seq.
- (25) Schink, *Naturschutz- und Landschaftspflegerecht*, Münster 1989, recital 662.
- (26) Cf. Ehlers, *VVDStRL* vol. 51, p. 231.
- (27) Cf. Wagner/Gundermann, *ibid.*, p. 314, 326.
- (28) Cf. Wagner/Gundermann, *ibid.*, p. 314 f., 326 f.
- (29) E.g. Louis, *Bundesnaturschutzgesetz*, commentary, 2nd edition, Braunschweig 2000, § 12 recital 81.
- (30) For a detailed treatise of this topic cf. Röhrscheid, *Walderhaltung durch UVP*, Augsburg 1999.
- (31) Cf. Riethmüller/Wagner, *Verkehrssicherungspflichten in der Forstwirtschaft*, *Wertermittlungsform* 1999, p. 21 et seq.
- (32) Concerning the question of priority forestal functions depending on the situation of the grounds cf. Wagner, *ibid.*, p. 19 et seq.
- (33) Similar approaches by Grabmair, *Österreichische Rechtsgrundlagen und ökonomische Beurteilung von Naturschutzauflagen für Waldflächen*, Dissertation Univ. Wien 1994; Sagl, *Bewertung in Forstbetrieben*, Berlin/Wien 1995, p. 139 et seq.; Wagner/Jönsson, *ibid.*, p. 75 et seq.; Lanschützer u.a., *Entgelte/Entschädigungen in Natura 2000 Gebieten (Forstwirtschaft)*, Wien 2001.
- (34) Cf., for example, Art. 36 a Abs. 2 of the Bavarian Nature Conservation Act (BayNatSchG), § 19 Abs. 4 WHG.
- (35) BVerfG, *DVBl.* 1999, p. 698 et seq.

(36) BVerfG, DVBl. 1999, p. 702 et seq.

(37) Wagner/Jönsson, *ibid.*, p. 44 f., with further references.

(38) E.g. explicitly provided for in Art. 2 a Abs. 3 BayNatSchG.

(39) E.g. § 3 a BNatSchG, Art. 2 a Abs. 2 BayNatSchG, § 2 Nature Conservation Act of the state of Brandenburg (BbgNatSchG), § 51 Abs. 1 Nature Conservation Act of the state of Mecklenburg-Vorpommern (LNatSchGMV), § 3 a Abs. 1 Nature Conservation Act of North Rhine - Westphalia (LGNW), § 39 Abs. 1 Saxon Nature Conservation Act (SächsNatSchG), § 1 Abs. 5 Nature Conservation Act of the state of Thuringia (ThürNatG).

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INFLUENCE OF EUROPEAN FOREST LAW ON GLOBAL FORESTRY CONSIDERING THE NEW LEGAL SITUATION IN IRAN

BY MASOUD GHELICHKHANI AND REZA BASIRI

Abstract

Indeed, in field of forest sciences, European scientists have been competent pioneers. Laws and provisions that nowadays form the base of forest programs have been emerged from and developed in European Countries especially in those of Central Europe. For instance, by taking European regulations that existed over forests appropriate forest legislation in Iran was created. In this connection, we can mention "Gentile" from Europe who played a well-deserved role to create rules relating to forest project (1985) which form the foundation of Iranian forest utilization and management. Also we can refer to "Etter" from Switzerland or "Von Dem Hagen" from Germany who by their presence in Iran promoted the training forest law specialists who are now in our universities or senior officials engaged in forestry projects.

Moreover, the forest organization of Iran was established with the assistance of European specialist like "Schrichert" from Austria (1925). On the other hand; many Iranian students were sent to Europe as well as workers and technician trained by European experts on behalf of FAO such as "Tregubov" from Yugoslavia. Furthermore, there is cooperation of Iranian stakeholders concerning educational and executive experiences with other countries such as: Afghanistan, Russia, Iraq, and Japan. One can consider Iran's role as a bridge to transmit European forestry legislation. The influence on countries around Iran is visible.

Meanwhile, in the countries located in the new world such as Canada and Brazil, even U.S.A the body of their environment related legislation contains an amount of European forest laws. A similar case can be identified in the African Continent due to the presence of active European forestry. Above the all, considering evolution route of forestry in different countries especially in Asia, for example, South Korea shows the importance and influence of European forest law on global forestry.

Key words: European forest laws, global forestry, Iran, legislation, forest project.

General developments

One should consider the fact that "the law is always in a process of change like its source namely social life". And to adapt past laws for new today's career is a difficult task. Perceiving the reality that European countries have advanced technical capacity in relation to forest and the effects that these countries have had on other countries is an interesting point. Europe with the intention of compatibility and conformation with various needs and changes has promoted multiple management of natural resources of as a necessity. {1}

Subjects such as re-building non-efficient forestry encouraging private activities, securing sustainable development, adjustment of the law to new targets, necessity of international cooperation between countries with intention of exchange of views can be considered as a part of European country's programs. {2} With regard to Iran's forests, until second half 20th century, there are no remarkable data but the evidences indicates that natural resources management has started with assistance of European scientist. {3} Influence of European forest laws has take place through experts since the beginning of forming the forestry organization of Ira. European experts like *Hans Schrichert* from Austria or *Von Dem Hagen* from Germany or *Louis Nique* from France played an important part in the formation of forest laws and regulations.

Route of transition of Iran's forestry organization

1922 is known as a starting point for forest management in Iran. Private forests were separated from state owned forests. At the same time European corporation especially from France, England and Sweden got busy with their activities in 1925, subsequent to the recovery of the financial situation of government. The forestry office employed *Van Dem Hagen* who prepared a new law on charcoal-kiln construction. In 1993, *Luis Nique* from France prepared other texts and compiled the available legislation.

In 1951 a forest institution was established in order to consolidate the fraction of forestry related organizations and to recovery the current deficit through additional revenues. Hence, an institute was run as a state commercial firm with the task to reduce the import of sleepers from which developed subsequently a governmental position and early steps towards forest utilization. In this context *Hamilton* from England had an important role.

In 1958, *Gentile* from France took a notable part with regard to the amelioration of Iranian forest laws as he introduced the concept of agroforestry. In this connection one could mention his article "Suitable exploitation of soil from making a balance between the forestry and agricultural point of view". Among those who had effects on compiling Iranian forestry laws one can also name *Karim Saii* known the Iranian forestry father who studied in Paris at the Agronomic Institute.

In 1961, the forest and range law was approved by Assembly. *Gentile* from France had an important part with regard to forest utilization on the basis of forest projects. In 1964, the laws for nationalizing forests were approved. Forest ranges and woodland were taken into account as public properties and belonged to the government. Previous to this legislation the ownership situation of forest was as follows: 25% State; 25% Royal; 50% privately owned.

Conclusion

To establish and develop the Iranian Forestry Organization has been a difficult task to formulate suitable laws as regards forestry and environment has taken many efforts. The role of European experts especially their advice, instruction, and training of foresters and their support in forest legislation is evident. In 1930, students were sent abroad and the first graduates played an important role for promoting appropriate changes and forming the forestry organization on Iran. The establishment of the forest institute in 1972 was accomplished with the assistance of *Tregubov* from Yugoslavia. We can also name *Djapitch* from Yugoslavia as a forest economist and *Etter* from the Swiss development cooperation as a forest management specialist, or *Humbelt* from Belgium as a expert regarding forest policy and legislation.

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REGISTRATION OF PROPERTY WITH LAND BOOKS IN LATVIA

BY LIGITA PUNDINA

Abstract

With the restoration of independence of Latvia a range of measures for the consolidation of property rights was taken in the 90ies. The subject of the present paper is the registration of property in the Land book of Latvia. The main objective is to show Latvia's experience in property, int. al. forest property, registration in Land books, to indicate what has already been achieved and what still has to be done, as well as to analyse these aspects in connection with the existing normative acts. The acknowledgment and consolidation of private property is the basis of the state and social systems.

The historical experience Shows that the most effective way to consolidate property rights is to implement the Land book system, which, in turn, is based on several commonly accepted principles – all real property is recorded in the Land book, the rights that are connected with that property are consolidated, the Land book is accessible to everybody and the records have full credibility for the public. Real property is recorded and consolidated in the Land books as a mortgage entity (including land together with buildings, buildings separately from land, apartments and non-residential buildings); property rights (who is the owner and what is the legal basis for that); limitations on property rights, limitations on use, incl. limitations that are introduced in the public interests, i. e. nature preservation and environmental protection; servitudes as property rights to use property belonging to other individuals; mortgages; other rights connected with real property (lease rights, etc.).

These were the crucial reasons for the restoration of Land book system in Latvia at the beginning of 90-ies. In the present paper, the experience of a state forest management company in legal consolidation of state forests, as an example of the registration of state forest property in the Land books is considered.

Key-words: Land book, property, owner, possessor (tenure), real estate, forest

Renewal of the operations of Land books in Latvia

The recognition and recording of a private property is a basis of state and social order. Clause 1 of the Protocol No. 1 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (November 4th 1950) states that – everyone has the right to own land or property. In 1998, a new chapter - "The Fundamental Human Rights" - was added to the Constitution of the Republic of Latvia, in which clause 105 establishes that "everyone has the right for property".

Along with the renewal of the independence of Latvia, a number of measures were taken for recording ownership. One of the most significant economic and political conditions was the renewal of justice regarding former owners and their heirs when renewing the ownership to the property once nationalized. The ownership to land is renewed for former landowners, incl. forest landowners who owned land as of 21 July 1940 (when the soviet occupation took place and nationalization was commenced) or for their heirs irrespective of their citizenship.

The historical experience has shown that the recording of ownership is effected in the most efficient way by a system of Land books, which, in turn, is based on several established principles: the whole real estate is entered into a Land book, the rights associated with it are recorded, Land books are available to everybody and their entries are publicly reliable. These reasons were decisive for making the decision at the beginning of the 90s to renew a system of Land books in Latvia.

Simultaneously with the renewal of the Civil Law also the Land book Law was renewed. Thus, the operations of the Land book departments at regional courts and the operations of Land books in Latvia in general were renewed from 5 April 1993. It should be noted that Land books are part of a court system in Latvia, i. e. Land books are judicial institutions. Judges of the Land book departments enter real estate into Land books and record the rights associated with it. Judges of the Land book departments have a legal status of regional (town) judges. Nobody is entitled to request a report or explanations from a judge on how a specific case was examined; a judge is subject to law only.

The Parliament of Latvia has passed and renewed a number of normative acts, on the basis of which the denationalization, privatization are carried out, ownership to and deals with real estate are governed. Until that time, the norm on a private property was more of a declarative nature, because the dealing with real estate had no basis governed by civil law, as the Civil Code of Latvian SSR effective at that time did not stipulate ownership to land at all. This was one of the most significant reasons why until the commencement of real operations of Land books in summer 1993, there were practically no significant foreign investments into production and the privatization process of state enterprises was slow: mortgage protection of investments was not ensured. Also normal banking operations were practically not possible, because mortgage protection was not ensured for loans. Thus, we can consider that only following the commencement of the operations of Land books, a safe environment appropriate for business started to develop in Latvia.

Real estate and its owner

In accordance with the Civil Law of Latvia, regarding the property, the object of which is a real estate, one system exists everywhere, i. e. corroboration or registration with public Land books. Only the owner of real estate entered in Land books is regarded as owner of real estate (Article 994 of the Civil Law). This principle reflects the essence of a property as property rights, which obliges any third party to respect it, because only upon entering a property into a Land book, it becomes known to third parties. This principle is fully applicable also to the state as an owner of the state forest.

When we look at special normative acts regarding the property of the state forest, then the law stipulates that the land of the state forest in nature protection territories is entered into Land books in the name of the state in the person of the Ministry of Environmental Protection and Regional Development, i. e. the land located within nature reserves and national parks. The other state forest in the jurisdiction and possession of the state shall be entered into Land books in the name of the state in the person of the Ministry of Agriculture, except for the cases where it is transferred into possession or permanent use of natural and legal persons in the procedure established by law. In this context, the land in the possession and jurisdiction of the state means the land of the Forest Department of the Ministry of Agriculture as at 21 July 1940.

The normative acts of Latvia stipulate that until the entry of the land property in the jurisdiction of the state into Land books, the actual users of property shall use the land property in their holding in good faith. These provisions regarding the state forest land are specified by the Forest Law, which establishes the state joint stock company Latvian State forests as a lawful possessor of the state forest, that fulfils the functions of forest owner in forest management and protection and will continue to fulfill them also following the registration of the state forest property with Land books in the name of the owner, i. e. the Ministry of Agriculture. In this case, the possessor of land bears burdens and encumbrances in accordance with the provisions of the Civil Law (i. e. complies with the restrictions on the rights of use, pays all taxes and additionally pays a certain annual charge into the state budget for the use of the state capital, i. e. the state forest), as well as collects yield from assets

contained in particular property (cuts trees, renews forest, arranges forest infrastructure, sells hunting lease rights, etc.).

The entry of a real estate into a Land book is compulsory. Article 993 of the Civil Law stipulates that not only every alienation of a real estate shall be entered into Land books, but also every change in its owner in general. The legislator has not stipulated sanctions for those who failed to do it in due time, but allows every owner to independently decide on the priority of solving that issue according to particular circumstances. The fact that in accordance with the provision of Article 993 of the Civil Law, a real transfer alone does not establish ownership for acquirer of a real estate, but requires the entry into a Land book as a necessary condition, follows from the essence of Land books and principles directed towards the protection of third parties, who, on acquisition of a real estate or on accepting a real estate as a collateral, shall be certain about the truth, stability, non-disputability and priority of acquired rights.

Only the property entered in a Land book grants to an owner full powers over property. This does not mean, however, that an owner cannot use and deal with that property without recognition of ownership by Land books, but until the entry into a Land book, an acquirer of a real estate has no rights against third parties and cannot use any of the priorities related to property.

Subjects of deals with land stipulated in the laws of Latvia

The legislation of Latvia stipulates a different range of persons, who can be subjects in deals with land and subjects in deals with buildings (as an independent property object). At present, deals with land in the territory of Latvia are affected according to general provisions of the Civil Law as far as they are not limited by special legal provisions. The most significant special legal provisions are contained in the Law on Privatization of Land in Rural Areas and the Law On Land Reform in Towns. In the both those laws, separate chapters are dedicated to deals with land with almost identical text.

Those laws list a range of those subjects, who can freely acquire land in the territory of Latvia. Those subjects are: 1) citizens of the Republic of Latvia; 2) the state and municipalities or enterprises established by them; 3) enterprises registered with the Register of Enterprises if more than a half of their share capital is owned by: a) citizens of Latvia, the state or municipality, or b) natural and legal persons from the countries, with which the Republic of Latvia has signed international agreements on the promotion and protection of investments (with a reservation that regarding the countries, with which such international agreements have been signed after 31 December 1996, the above rights are effective only if the rights of natural and legal persons from Latvia to acquire land are stipulated in a relevant country).

The both land reform laws establish also limitations for deals with land regarding all those not contained in the range of those subjects, who can freely acquire a real estate in Latvia (consequently, also regarding the EU citizens). Those limitations contain a prohibition to acquire land in the frontier area of the country, land in protective zones and nature reserves and land used in agriculture and forestry, as well as stipulates a special acquisition of a land. Regarding the acquisition of buildings into possession if those buildings are an independent property object (i. e. without land), the laws do not stipulate any limitations for the citizens of the EU member states. The same relates also to apartment property.

Land books and entry of a real estate into a Land book

The Land books are a registration system of real estate and the rights associated with it, which operates according to the Civil Law and the Land book Law. A real estate is entered and recorded into Land books as a mortgage unit (including land together with buildings,

buildings separately from land, apartments and non-living premises); ownership (who is an owner and on which lawful basis); restrictions on ownership, abridgements, incl. restrictions on the rights of use, which are set in the interests of the public, i. e. nature and environment protection requirements; servitudes as property rights to use the property of others; mortgages; other rights associated with real estate (lease right, hereditary right, etc.).

Land books contain also historical information about real estate. Thus, the objective of Land books is to guarantee the rights of owners, creditors, leaseholders and other interested parties to real estate; to provide state and municipal institutions with legal data necessary for the fulfillment of their functions (determination of taxes, execution of court decisions, examination of property declarations, etc.) in relation to real estate; to make that information publicly available ("Land books are available to everybody, and their entries are publicly reliable"); to provide a basis for the development of a mortgage lending system in the country. If any rights are entered in a Land book, then it should be assumed that such rights really exist and correspond to the ones entered in a Land book. If somebody says that an entry in a Land book is improper, and then he is obliged to prove it, another party is entitled to refer only to the rights entered in Land books until the opposite is proved.

The leading principle of the whole Land book system is publicity, openness, and a principle of public reliability related to that. Article 1 of the Land book Law of 22 December 1937 stipulates that Land books are available to everybody, and their entries are publicly reliable.

The principle of publicity (openness) is formally expressed as a possibility of every interested party to look into a Land book to obtain information necessary for him. An information from Land book sections may be requested and obtained by every interested party, but an information from recording journals, index of owners and real estate files may be obtained only with a permission from a judge of a Land book department, because the access to that information is limited by law, as it is stipulated by the Natural Person Data Protection Law. Land books in their operations strictly comply with several principles, which fully ensure the interests of both owners and creditors.

The principle of priority means that the rights stipulated earlier have priority against the ones entered later or, in other words, the range of entered rights determines their future. In this case, the entering means the making of an entry itself, about the existence of which any person may get to know as from that moment. In material aspect this principle ensures that the range of the rights entered in a Land book is determined according to the sequence of entering them into a Land book. The principle of priority resulted from the fact that the actual basic idea of a credit is the satisfaction of a claim by a certain asset of a debtor on the basis of indisputable priorities against other creditors. For this purpose, information should be provided by a Land book not only on the amount of encumbrance on a real estate, but also on the sequence, in which they follow each other. The principle of priority excludes collisions of interests of separate creditors, because the rights established later should step back in front of the rights established earlier.

The entering of a real estate into Land books is done based on the Law On Entry of Real Estate into Land books and in accordance with the requirements established by the renewed Land book Law of 1937.

In accordance with the Law, the following property exists in Latvia:

1. Real estate of natural persons;
2. Real estate of legal persons;
3. Real estate of the state and municipalities;

The following property is entered into a Land book:

1. Real estate - land property, incl. forest property;
2. Real estate of land and buildings;

3. Real estate property of buildings;
4. Apartment property.

As already mentioned, the entering of a real estate is only one constituent part of the extensive work, another large part (in 2001, it constituted approximately 40% of the number of judge decisions¹) is the recording of an ownership for acquirers of a real estate, the recordings of collateral, lease, servitudes, ownership restrictions.

Registration of state forests into Land books

In Latvia, 50% of all forests are owned by the state, but 94% of the state forest property is managed by the state joint stock company Latvian state forests. In 2002, the work has been commenced for the registration of the forest property transferred into the possession of the company with a Land book in the name of the state. It should be noted that in accordance with the legislation of Latvia following the registration with a Land book that forest is still only in the possession of the company. The registration of the state forest property with a Land book is necessary, because along with the registration the ownership of the state is legally recorded, i. e. legally recognized information of Land books is stored at one place (central database) and state administrative, municipal and judicial institutions may obtain current (as at the moment of request) information on recorded rights and restrictions of rights to any real estate.

When recording into Land books, forest property is actually surveyed in nature and borders are recorded in nature (because until the actual survey, the borders of the state forest land transferred into possession are not always known) and thus potential disputes about borders of the state forest lands and property laying next to them are eliminated, a correct compatibility of data of the State Forest Service, State Land Service and the company managing the state forest is achieved regarding the areas of the state forests. The state and its forest managers obtain a legally and cartographically substantiated material for carrying-out stock-take activities of forest and following the survey of forest land, the amount of the real estate tax is specified. It is essential that thus all restrictions and encumbrances on the rights of use are registered and along with the registration with Land books an objective to provide an owner, i. e. the state, and the public with the most significant value, which can result from the management of forest property is achieved promoting the establishing of arranged nature, social and business environment.

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CONTRADICTIONS BETWEEN THE PUBLIC AND PRIVATE INTERESTS IN NATURE PROTECTION AND COMPENSATIONS IN LATVIA

BY LĪGA MENĢELE

Abstract

Nature protection is one of the most serious issues we have to focus on during the time of fast economic development. In transition to market economy the nature protection implies reaching a balance between the private and public interests. The state is one of the persons who own resources (including forests). However, at the same time it acts as a subject whose duty is to protect the public interests. It is not easy to make decisions that would satisfy the interests of the state as both the subject of public and private rights. The commitment of the state to ensure nature protection in public interests and the interest of private owners to derive profit from the real estate owned by them represent another and more serious contradiction between the public and private interests. For the private owner nature protection seems “a problem” in managing his property freely with no need for observing any restrictions.

The issue of compensation for the loss of profit for the property under the regime of nature protection so far remains unsolved. Some legal norms are included in the law, but they are not as yet applied in practice. Some problems related to the compensation mechanisms will be discussed in greater detail. Tax reduction for the real estate is the only legal norm, which already exists and is applied in Latvia.

From the viewpoint of a democratic state it is anti-constitutional to impose a protection regime for new nature areas with no mechanism of compensation to the owner. If there is no possibility for the owner to get some benefit from his property because of complying with public interests in nature protection, the economic loss to the forest owner must be compensated by the state. The best solution would be to create a situation where the owner is motivated to own a property, which is under the regime of nature protection rather than give it up. There should be educational work about the importance of the nature protection and really practicable compensation mechanisms.

Kinds of property and nature protection

During the Soviet period the question of finding a balance between the private and public interests was inessential, because all the land and forests on it were state property and there were no private interests at all. Realization of the private rights in owning land was legally impossible during the Soviet period as Article 95, Part 2 of the Civil Code of the Soviet Social Republic of Latvia (enacted June 1, 1964) stipulated that the land, subsoil, waters and forests were exclusive state property and only user's rights of the property could be granted to other persons. When Latvia became an independent state on May 4, 1990, it was the time the state property privatisation started. The first step was to formulate the privatisation principles, which were worked into the privatisation and land reform laws. Privatisation process is not finished yet, but the basic procedures are completed. As a result of it Latvia has approximately 154,400 private forest owners (as of 10.09.2001). The national forest asset of Latvia is 2.9 million ha or 45% of its land area. The ownership status of the forests are as follows: state-owned forests - 50%, private forests - 42%, forests owned by local governments - 4%, other ownership forests - 4%. The private forests are owned or legally held by the individuals and legal persons. The average size of a forest holding in Latvia is 8 ha.

The existence of private property is the prime precondition for contradictions between the public and private interests. The second precondition is the difference between the private and public interests related to the use of the property. The question is in what points the private interests and the public interests in nature protection coincide. Nature protection is

connected with the public legal system, because the state has to respect and to protect the rights of every its subject. The public has the right to live in a favorable environment (Constitution, Article 115). The law “On Environment Protection” (enacted Aug. 6, 1991) Article 1 determines that the aim of the said Law is to create such a mechanism of interaction between the public and nature, which can guarantee environment protection, effective nature management and the rights of the population of the Republic of Latvia to live in a favorable environment.

The State’s dual role

The prime contradiction between the public and private interests can be said to arise from the state’s dual role in relation to forest management and utilization. The fact that in forest management and utilization the state acts as both the subject of public and private rights differentiates it from the forest owner. On the one hand, the state as one of the forest owners performs the ownership function. The ownership function means the state ensures fulfillment of socially accepted ecological and social functions characteristic of state forests, the preservation and increase of forest value and income to the forest owner – the state. Thus the state as the subject of private rights owns forest and extracts profit from it. However, the state as the subject of public rights must act according to the public interests to ensure compliance with the principles included in Section 115 of the Constitution of the Republic of Latvia: “the right of the public to live in a favourable environment”. As the subject of public rights the state performs the regulatory, supervisory, and support functions. The regulatory function is vested in the Ministry of Agriculture, but the supervision and support functions - in the State Forest Service.

The attitude and the environmental education

Another essential contradiction is that between the state’s public interests in nature protection and the economic interests of private owner in deriving benefit from his/her property. For a private owner the nature protection seems a “problem” in managing his property freely with no need for observing any restrictions. It is hard to explain the situation, where the individuals are not guided by the need to observe nature protection requirements in managing some of the natural resources – land, water, forest etc., but at the same time they agree that because of the global environmental crisis more attention has to be paid to the nature conservation. “One of the main prerequisites of nature conservation and man’s survival is the new philosophy of living, based on ecological principles and the man’s modified attitude to nature of which he is a part,”² one can agree with M. Todorovič and G. Brun that the attitude and principles make the basis of all the decisions taken.

It is important to strive for changing the public attitude to nature protection. It has to be one of the state’s priorities to teach and to inform the individuals about the importance of nature conservation for the future generations the more so because “the humanity enters the third millennium with great global problems:

- destruction of biosphere and its ecosystems
- demographic explosion – the world population is expected to reach 12 billion by 2010
- global climatic changes
- depleted natural resources
- insupportable quantities of waste
- damaged health of people, etc.

On the one hand, industrialization improves the living standard of great many people all over the world, but on the other hand, it affects negatively the quality of the environment and

² M.Todorovic, G.Brun “The Role of Education and Public Information in Nature Conservation”// “Forest Ecosystems of the National Parks”, Belgrade, 1997, page 66

human health.”³ Ecological education is one of the means of mitigating the contradictions between public and individuals’ interests in nature protection. “Ecological education for environmental protection should enable the redefining of man’s relations to nature and the change of his behaviour: the main condition is to respect the laws of nature.”⁴

Specially protected nature territories

The law “On Nature Protection” defines the basic principles of nature protection, and one of the principles is to harmonize ecological and economical interests of the society. The law “On Environment Protection” is the “umbrella” law regulating the environment protection. There are lots of special laws related to the nature protection. Law “On Specially Protected Nature Territories” is one of the legal acts where all specially protected nature territories are identified and the basic restrictions are formulated. “National Programme on Biological Diversity” (Approved by the Cabinet of Ministers on February 1, 2000), Chapter 34 states: “the first protected nature territory in Latvia was founded in 1912. However, the system of protected nature territories started to take shape only after Latvia won its independence in 1918. Initially the protected territories were called natural monuments. The first list of protected territories was drawn up in 1923. In 1939, the protected territories covered 40,000 ha. (...) Currently, in Latvia there are 246 specially protected territories, which account for 8.7% of the total area. The Northern Vidzeme Biosphere Reserve, covering 475,326 ha, is a special case, forming a region to promote sustainable development and conservation of natural and cultural – historical values.”⁵

According to the law “On Specially Protected Nature Territories”, the categories of specially protected nature territories in Latvia are as follows:

1. Nature reserves
2. National parks
3. Biosphere reserves
4. Nature parks
5. Nature monuments
6. Restricted nature territories
7. Protected landscape areas.

The landowner has the following obligations:

- 1) to abide by the protection and utilization regulations for the given protected territory and implement the related activities to ensure the protection;
- 2) to inform the respective administrative authorities, the regional environment protection board, and the local government for the on-going and potential changes in the object under protection, as well as inform of the cases the protection and utilization regime is violated.

Compensations

The issue of getting compensation for the loss of profit for the property under the regime of nature protection is still in the process of development. Chapter 30 of the “National Programme on Biological Diversity” quotes the following principles related to the economic instruments for environmental protection: “The economic interests are frequently in conflict with nature protection. To reduce the social lack of acceptance of nature protection, a mechanism for compensation is required. Single-time compensation may be offered for the losses caused by protected animals, or for restricted use of land in protected territories, for example, the use of forest resource. However, an effective use of economic instruments requires to:

³ page 67

⁴ page 67

⁵ “National Programme on Biological Diversity”, Riga, 2000, page 45

- 30.1. develop a legal and finance mechanism for compensation
- 30.2. determine the amount of compensation to be offered for damage to species and habitats
- 30.3. promote implementation of land tax incentives and subsidies
- 30.4. develop model territories for protection of biological diversity on agricultural land to assist farmers in obtaining subsidies.”⁶

Since the approval of the National Programme on Biological Diversity by the Cabinet of Ministers some steps are taken to create a system of compensations. First of all, important changes concerning compensations were made in February 28, 2002 in the law “On Specially Protected Nature Territories”. According to the law the landowner is entitled to tax easements or other compensation provided the regime of nature protection causes loss to him. If the specially protected nature territory is established after he obtained the title to this property, land exchange is possible between the owner and the state/ local government property. According to the law “On Specially Protected Nature Territories” The Cabinet of Ministers has an obligation to work out till January 1, 2004 the Regulations on compensations paid to landowners whose properties are under the regime of nature protection.

One of the tasks mentioned in Paragraph 30.2. “Determine compensation amounts to be offered for damage to species and habitats” is already fulfilled. The Cabinet of Ministers has worked out the Regulations Nr. 345, enacted on August 4, 2001 “Procedure for evaluating the damage to the property caused by protected non-game and migrating animals”. Latvia applies tax reduction for the real estate, which is under the regime of nature protection. The private owner is free from paying a tax for the real estate where any economic activity is banned.

From the viewpoint of a democratic state it is anti-constitutional to impose a protection regime for new nature areas with no mechanism of compensation to the owner. If there is no possibility for the owner to get some benefits from his/her property because of complying with public interests in nature protection, the economic loss to the owner must be compensated by the state.

Chapter 34 of the “National Programme on Biological Diversity”, Paragraph 34.7. states that “the development of the system of protected nature areas requires that the state of Latvia gradually acquire in its possession the lands under protected nature territories.”⁷ The project “Land Consolidation in the Gauja National Park” was carried out as an experiment during 2001 – 2002. The project aim was to increase the proportion of state-owned lands in the restricted nature zones of the Gauja National Park. Private properties with serious restrictions of economic activities will be exchanged with equal land in other zones of the Gauja National Park, where no such restrictions exist. The exchange is based on mutual interests – the private owner wants to get benefit from his property, the state has interest in realizing its long-term nature protection goals. This project is still going on.

Conclusions

- The public understands the importance of the nature protection, but in case nature protection imposes restrictions on property rights, the landowners feel dissatisfied with the realization of the state’s public rights in nature protection.
- Contradictions between the public and private interests should be identified within the state’s role in forest management and utilization: 1) interest in nature protection, 2) interest in getting incomes from the state’s property. It is important to separate these functions.

⁶ pages 43, 44

⁷ “National Programme on Biological Diversity”, Riga, 2000, page 45

- Serious educational work should be done to inform the public about the importance of the nature protection as a means to avoid ecological crisis. Private owners have to understand that their interest in getting immediate benefit from the property is not the most important one in the long term;
- A compensation mechanism has to be developed. Private owners are entitled to a compensation for the damages they have to suffer because of specially protected nature territories in their holdings.

LEGAL AND FINANCIAL INSTRUMENTS IN POLISH FOREST POLICY

BY STANISLAW ZAJAC

Abstract

The paper presents the main acts concerning forests, forestry, and forest-related activities in Poland, i.e.: Forest Act, Act on Nature Conservation, Act on Environmental Protection, Act on the Protection of Arable and Forest Land, and Act concerning Designation of Agricultural Land for Afforestation. The major legal instruments of the Polish forest policy, defined in these acts, are subject to analysis. In order to implement the concept of forest policy drawn up by the state, a number of forest programs have been implemented. The National Program for the Augmentation of the Forest Cover (NPAFC) and the National Forest Program (NFP) are the most important documents and main tools in implementing the principles of sustainable, balanced and multi-functional forest management.

The paper presents a review of institutional settings regarding the purposes, sources and instruments of financing the forest policy in Poland, both in the private and state forestry sectors, as well as it provides some specification of actual costs of the measures applied. An overview of the scale and priorities of public financial support in forestry is based on both the analysis of documents and the facts related to public expenditure incurred on the State Forests and private forest owners.

The major part of the subsidies from the state budget is directed to the State Forests for the implementation of assignments specified in the Forest Act. However, these amounts are usually insufficient to cover the assumed expenditure, so the State Forests have to look for external financing. Similarly, private forestry apart from state budget means receive financial assistance and incentives from other public sources in the form of advisory activities in forestry management for private forest owners at the expense of the State Forests.

Key words: forest policy, forest law, legal and financial instruments, Poland

Introduction

The most distinctive feature of the present forest policy in Poland is the dominant position of the public forestry sector, and especially of the State Forests National Forest Holding, which is responsible for the management of most of forests being the property of the State Treasury. Unlike other countries in the region, Poland has not yet started the restitution process, although a number of parliamentary and governmental proposals focused on solving the issue of restitution claims have been worked out and discussed several times since 1990. The latest bill on the restitution does not predict physical return of forests to their former owners. Instead, the bill offers financial compensations for the owners and their successors at the rate of 50 per cent of the total value of their nationalised forest estates.

Although the area of private forests presently accounts for 17 per cent of the total country's forest cover, the performance of private forestry when compared with the State Forests is of less significance. The main reason for that is an extremely high fragmentation of private forests, where the average area of a single forest holding is 1.3 ha.

The legal framework of public financial support in forestry is set up in the Forest Act of 1991. It is the main document defining forest policy goals. Forest policy goals are also drawn up in the National Policy on Forests of 1997, which is a comprehensive document but does not specify financial instruments to implement these goals.

The direct incentives from the state budget granted for private forest owners are rather small. The major part of public expenditures in forestry is being spent by the State Forests on specific public services, such as afforestation of the state-owned marginal agricultural land,

restitution of forest stands in areas damaged by forest fires and industrial pollution, management of forest nature reserves, forest education and others. However, the private forest owners may obtain additional financial support from the State Forests. In accordance with the Forest Act, such support shall be provided through the implementation of control and protection measures against forest pest, carrying out technical advisory services in forest management, and free of charge provision (in specially justified cases) of seedlings of forest trees and shrubs for the purpose of forest cover regeneration.

National forest policy and strategy

The aims of the national policy concerning forests are to ensure the maintenance of the sustainability and multi-functionality of forests, which will be achieved by:

- increasing the country's forest resources,
- improving the state of forest resources and providing them with comprehensive protection,
- re-orienting forest management away from the previous domination of the raw-materials model towards a pro-ecological and economically balanced model of multifunctional forest management.

The framework of Polish forest policy is set out in the document "National Policy on Forests" (1997) and a number of action programmes. In order to determine the extent of the new Polish forest policy, Regional Operational Programmes of the State Forest Policy (ROPSFP) are being prepared, which comply with the basic principles laid down in the National Forest Programme (NFP – in elaboration).

The Polish forest policy defines the rules of conservation, protection and enlargement of forest resources, and the rules for the forest economy as linked with other elements of the environment and the national economy. These regulations are applied to forests in general, irrespective of their form of ownership. In accordance with the Forest Law, public forests are under the supervision of the Minister of Environment and the management of private forests is under the supervision of the province governor or the head of the regional office of the governmental administration.

Sustainable forest management is defined as actions intended to shape the structure of forests and to use them in a manner and at a rate ensuring the ongoing preservation of their forest biological diversity and richness, high productivity and regenerative potential, vitality and ability to serve - now and in the future – all the important protective, economic and social functions, at the local, national and global levels, without harm to other ecosystems. The Forest Act also contains the statement that forest management is carried out in accordance with the forest management plan or the simplified forest management plan with particular account taken of the following aims:

- 1) the conservation of forests and their favourable impact on climate, air, water, soil, living conditions for humans and their health, as well on the balance of nature (ecological balance),
- 2) the protection of forests, especially those that are native fragments of the country's natural heritage, or those that are particularly precious with regard to:
 - a) the diversity of nature,
 - b) the preservation of genetic resources of the forest,
 - c) valuable features of the landscape,
 - d) research needs,
- 3) the protection of soils and areas especially exposed to pollution or injury, or of special social importance,
- 4) the protection of surface and ground waters, drainage-basin retention, in particular in watershed areas and areas supplying reservoirs of ground waters,

5) the production of wood on the principles of the highest gain, as well as of raw materials and by-products of forest use.

Forestry programmes

Since 1990, Polish forestry has experienced significant structural transformations. The main reason of these transformations is a shift in society's expectations for a considerable expansion of forest services reflecting the full range of benefits deriving from forest functions (productive and non-productive). Polish society is aware of the increasing role of forests, their positive impact on the environment, especially on human health (rest, recreation), water resources (flood control function), reduction of soil erosion and preventing steppization processes.

Polish society strongly supports the broad accessibility of forests to the population. International requirements are a further stimulus for continuing the ongoing changes to the benefit of natural resource protection, forests included, expressed first of all in declarations and conventions resulting from the principles of sustainable development.

In the attempt to meet public's expectations the Parliament and the Government have adopted a number of programmes and resolutions, of which the following are worth mentioning:

- Parliament resolutions on sustainable development,
- Ecological Policy of the State,
- Programme of the Polish Policy for the Comprehensive Protection of Forest Resources,
- Forest Act with later amendments,
- Ordinances of the Minister of Environment,
- Policy of the Balanced Forest Management,
- Regulations of the Director-General of the State Forests.

The State Forests and forest owners are obliged to maintain forests and ensure the continuity of their use. Currently, the forest policy and its legal consequences have put forest owners and administrators under the obligation to maintain forests in proper conditions; moreover, forest holdings were to be self-financed; state budget subventions to forest management constitute an insignificant percentage in the total cost spent on it.

The programmes concerning forests and forest management require:

- 1) the increase of forest cover through the afforestation of land unsuitable for agriculture in order to attain the level anticipated in the National Programme for the Augmentation of Forest Cover,
- 2) the departure from or reduction of clearcuts,
- 3) the elaboration of the programmes for nature conservation for forest districts,
- 4) the approval of the location of the protective forests and specific economic procedures establishing for them by the Minister of Environment,
- 5) the limitation of the entrance to the high risk forests,
- 6) the establishment of the Promotional Forest Complexes; which are, to some extent, the experimental areas managed in line with the principles of sustainable development.

Promotional forest complexes thus became a tool of the Director General of State Forests in promoting a sustainable and balanced forest management and forest nature conservation. The Promotional Forest Complexes are composed of forests under supervision of the State Forests. Forests that belong to other owners can be included in Promotional Forest Complexes provided the owners have applied for such an inclusion.

Promotional Forest Complexes (in number of 13 and with a total area of 619,100 ha, i.e. 8,9 % of the total state forests area) are functional areas of ecological, educational and social importance with a special and uniform, economic protection program prepared by the respective director of the Regional Directorate of the State Forests. The basic aim

of promotional forest complexes is to introduce to forestry practices principles for directing its economy while totally accepting the status of and the need to fulfil nature conservation requirements. The general director of the State Forests appoints the scientific-social council for each individual Promotional Forest Complex, responsible for the drawing up and implementation of projects in those areas.

Issues concerning closer co-operation between forestry and society have been also included the forestry programmes Legislation concerning environment protection and spatial planning is combined with a local government plans with regard to balanced forest management and forest nature conservation in private forests. The attainment of better co-operation between forestry and society relevant decisions were taken, and in particular:

- legal regulations were adopted;
- promotional forest complexes were established;
- accessibility to forestry information is still growing as a result of, among other things, public statistics;
- forest-related education and the shaping off appropriate attitudes to forest and forestry of society is widely exercised (broadcastings, articles, brochures, training, educational trails, lectures. etc.).

One of the most important elements of the forestry programmes is close co-operation and participation in the structural development of rural areas and agriculture. According to the Conjunctive Policy for the Structural Development of Rural and Agricultural Areas 190 thousand hectares of abandoned agricultural land in 2000-2002 and 260 thousand hectares in 2003-2006 are to be given over to afforestation. The cost of afforestation is estimated at about PLN 950 and 1 300 million, respectively. In the second period the additional amount of PLN 700 million thousand are to be appropriated for compensations for farmers because of the losses in their incomes after they have given their land over to afforestation.

This situation has generated a number of problems to forestry economy. One of them is the production of seedlings, their transportation, planting, etc. In the future, such situation may also lead to some distortions in the timber market etc., which can not be clearly foreseen at the moment.

Finally, the program of privatization of the economic activity (privatization of task execution) in forestry is worth discussing. The present transformation in Poland allowed for rationalization of economic activity, which also refers to the State Forest. The greatest economic and organizational changes in forestry economy was the privatization of the economic activity of the State Forests that has led to raised economic efficiency (from 60 to 95 % depending on the type of task) and to a fall in the level of direct employment in the State Forests.

Organisation of forestry administration

The drawing-up and implementation of the state policy on forests is among the duties of the Minister of Environment. In particular, the Minister is obliged to shape conditions underpinning the achievement of all the functions of forests; to provide constant supervision over the condition of forests and forest management, over the forests within National Parks and over the preparation of programmes following national policy. A further statutory duty of the Minister is to present the annual Information on Forests to the government, which is later directed to sessions of parliament.

The Ministry of Environmental consists of thirteen departments. One of them is the Department of Forestry dealing with forest-related questions.

National policy in regard to state forests is pursued by:

- The Director-General of the State Forests, in the scope of improvement of the management practices performed on the state owned forests and their use as well,

allowing thus for accomplishment of all the functions supplied by forests and indicated by the state policy on forest; the organizational structure of the State Forests Enterprise managing the public forests is composed of the General Directorate of the State Forests in Warsaw, 17 regional directorates of the State Forests, and 438 forest districts,

- The Director of the National Board for the National Parks and Park Directors, to the extent determined in the Forest Act, in relation to forests under all forms of ownership and in the scope of protection and management of forest ecosystems accordingly to the conservation plans of National Parks,
- The Office of Forest Management and Survey, in the scope of introducing to planning procedures the principles of forest management directed at achieving the aims of multi-functionality in the holding, and monitoring of the state of forest resources and forests' condition.

National policy in regard to private forests is pursued by province governors (16 provinces), in the scope of perfecting of the sustainable use of private forests and their resources, the improvement of the condition of such forests, and supervision over them. Partners in the implementation of national policy on private forests are units of the national and local government administrations of the appropriate level:

- the provincial administration, in relation to planning policy within province that guarantees maximum protection for forests (environmental protection, afforestation and systems of timbered areas),
- the local administration and self-government, in the scope of direct cooperation with Forestry Inspectorates and mutual participation in planning processes (forest management plans; physical development plans for communes; conservation plans for National Parks, Nature Reserves and Landscape Parks) and in programmes to increase the ecological awareness and knowledge of local communities and to improve local models for sustainable development on the basis of, i.e., the inclusion within them of the resources and valuable features of forests,

A particular role in establishing national policy on forests is played by Sejm and Senat (lower and upper houses of parliament) and the government. There is also the Standing Committee of Environmental Protection in Polish Parliament, which is regularly dealing with forestry related topics.

Legal instruments of the forest policy

The following legal acts (main legal instruments) refer to forests and forest-related activities in Poland:

- Forest Act (of the day 28 September, 1991, updated on 24 April of 1997),
- Act on Environmental Protection (of the day 27 April, 2001),
- Act on Nature Conservation (of the day 16 October, 1991),
- Act on the Protection of Arable and Forest Land (of the day 3 February, 1995),
- Act concerning Designation of Agricultural Land for Afforestation (of the day 8 June, 2001).

Principles for the preservation, protection and augmentation of forest resources, along with those for forestry management linked with other elements of the environment and the national economy but irrespective of form of ownership are set out in the Forest Act. This document elevates the environment-creating and general social values of forests to the same level as the raw-material benefits.

Furthermore, the Forest Act states that the forest economy is run in accordance with the following principles (art. 8):

- 1) the general protection of forests,
- 2) the assured persistence of forests,

- 3) the continuity and balanced use of all forest functions,
- 4) the enlargement of forest resources.

Apart from the Forest Act, the General Directorate of State Forests can make use of a number of its own legal instruments in the form of decisions and regulations issued by the Director-General. The decision of the Director-General of the State Forests nr 30 of 19.12.1994 concerning the establishment of promotional forest complexes, decision nr 11 of 14.02.1995 concerning the improvement of the forest economy on the ecological basis, as well as other decisions and regulations of the Director-General (especially those concerning the protection of the Bialowieza Primeval Forest) could serve as an example.

Financial instruments of forest policy

In accordance with the Forest Act the State Forests receive from the state budget targeted donations for mandatory tasks entrusted by the government, and in particular in the field of:

- 1) the purchase of forests and land for recultivation and afforestation, as well as other land aimed for the maintenance of their natural character,
- 2) the execution of the national programme for the augmentation of forest cover, as well as tending and protection of plantations and thickets established within the framework of this programme,
- 3) the management and protection of forests in cases of the threats to their sustainability,
- 4) the preparation of the large-scale inventory plans of the state of forests, the updating of information about the state of forest resources and running the database about forest resources and the state of forests,
- 5) the preparation of the plans of nature conservation for nature reserves being under the administrative supervision of the State Forests, their implementation and conservation of plant and animal species,
- 6) the financing of forest-related education of society especially through the creation and managing of promotional forest complexes, setting up educational forest trails.

In 2001, the allocation of money from the state budget to the activities listed in the Forest Act implemented by the State Forests reached some 42 per cent of the total needed sum for these activities as calculated by the State Forests (see Table). In such circumstances, the General Directorate of the State Forests applied for the missing financial resources (in the form of grants) to the National Fund for Environmental Protection and Water Management (NFEPWM).

The Forest Act identifies three sources of financing of the respective activities carried out in private forests, namely: the state budget and the non-budget: from the State Forests (Forest Fund) and the Environmental Protection and Forest Management Fund. The state budget covers the expenses borne on the activities in private forests, and in particular:

- 1) the costs of forest management and protection connected with the afforestation or conversion of stands,
- 2) the preparation of simplified forest management plans,
- 3) the preparation of the forests inventory plan,
- 4) the purchase of seedlings,
- 5) monetary equivalent for the afforestation of agricultural land.

Private forest owners may receive donations from the state budget, which will cover, in part or in full, the expenses for the afforestation of land given over to afforestation so-designated in the local spatial management plan.

Direct financial incentives for private land owners are rather small when compared to the state budget expenditures granted for the respective activities determined in the Forest Act and carried out by the State Forests. In 2001, the following total sums were granted from the state budget to the private forestry:

- the preparation of the simplified forest management plan (or forest inventory record for the forest area less than 10 ha) – 1.338.000 PLN,
- the afforestation of marginal agricultural lands (these solely are costs of seedlings provided, free of charge, to the land owners) – 1.859.000 PLN.

Table 1: Grants from the state budget to the State Forests in 2001

Activity	Scheme (1,000 PLN)	Allowance (1,000 PLN)
- purchase of forest lands for afforestation	1.000	-
- afforestation and tending of young stands, along NPAFC	60.000	45.000
- national inventory of forests	7.000	-
- updating information about the state of forest resources	2.000	-
- development of a database on forest resources	10.000	-
- education of society on forest-related issues (creating and maintaining nature trails, education centres)	5.000	-
- conversion of forest stands damaged by industrial pollution	48.000	9.118
- management of nature reserves and conservation of flora and fauna species	2.000	-
- transformation of areas damaged by forest fires	3.600	3.600
Total	138.600	57.718

Source: Department of Forestry at the Ministry of Environment.

In accordance with the articles of the Forest Act the State Forests are obliged to take actions in favour of private forest owners, and in particular by:

1) implementing control and protective measures in the case of the occurrence of harmful organisms to a degree threatening the sustainability of forests at the expense of the appropriate forest districts,

2) carrying out advisory activities in forestry management for private forest owners by the head forester (superintendent) in the case of forests that are not the property of the State Treasury,

3) making available, free of charge, seedlings of forest tree and shrubs species for afforestation of post-agricultural land by the head forester (superintendent).

The amounts from the Forest Fund that are at the disposal of the State Forests (dues, fines and payments are transferred to the separate account in the General Directorate of the State Forests) are designated mainly for the purchase of seedlings for afforestation of former agricultural land. The amounts from the Environmental Protection and Forest Management Fund are designated for the preparation of afforestation plans and purchase of seedlings for private forest owners.

Tasks of the state services carried out under the National Programme for the Augmentation of Forest Cover

The scope and nature of the tasks which the state services carry out under the National Programme for the Augmentation of Forest Cover (NPAFC) depend on the source and the entity disposing of the financial resources to be allocated for afforestation works, as well as on the form of ownership of the land given over for afforestation. The main sources

of financing afforestation works are the public means which according to the law in force are: 1) the state budget and 2) non-state budget funds (Forest Fund, Provincial Funds of Environment Protection and Water Management).

The Minister of Finances, as well as other ministers and provincial governors duly authorised by relevant acts, dispose of the budgetary means. With regard to afforestation of lands that are the property of the State Treasury the funds defined in the Budgetary Act are transferred via the Minister of Environment to the Director General of the State Forests, who distributes them to the subordinate organizational units executing afforestation works on so-designated lands given over by the Agricultural Property Agency of the State Treasury (APAST).

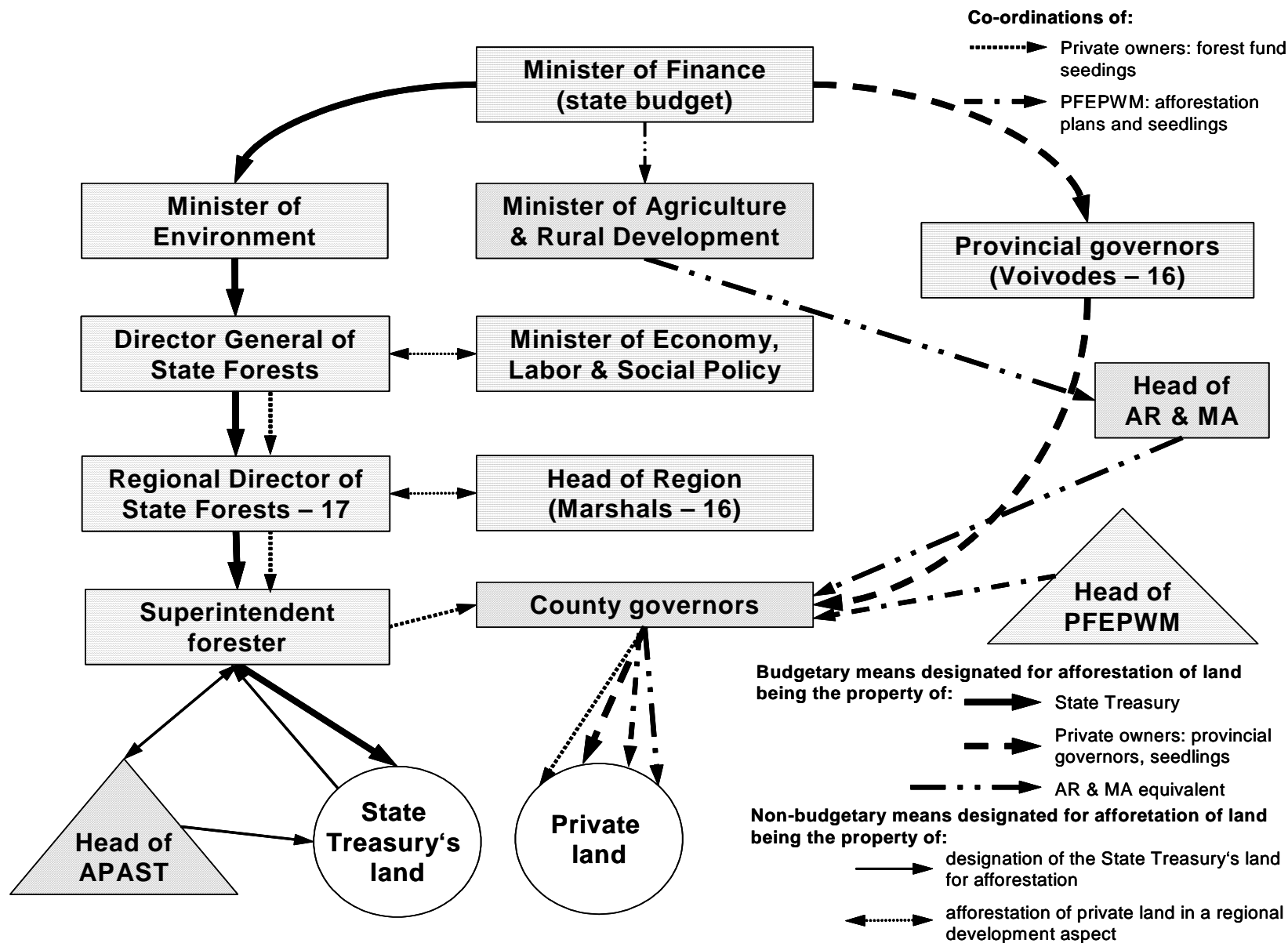
With regard to afforestation of lands that are not the property of the State Treasury the budgetary means defined in the Budgetary Act are directed: 1) via the provincial governors to the county governors for the purchase of seedlings which the forest owners receive free of charge and 2) the Minister of Agriculture and Rural Development to the Agency for Restructuring and Modernisation of Agriculture (AR&MA). After the receipt of the applications submitted by county governors, the Agency transfers the funds to the account of an appropriate county, from which the owners of afforested lands receive an equivalent for the withdrawal of land from agricultural production.

The main sources of financing afforestation of lands being the property of the State Treasury are the non-budgetary means from: 1) the Forest Fund which are deposited on a separate account in the General Directorate of the State Forests (the Director General of the State Forests is authorized to dispose of the money from the Forest Fund via head foresters (superintendents) and county governors) and 2) the Provincial Funds of Environment Protection and Water Management (PFEPWM - the funds are distributed by the county governors). The means from the both mentioned sources are designated mainly to cover the costs of purchasing seedlings provided, free of charge, to private owners. In accordance with the provisions laid down in the Act concerning destination of agricultural land for afforestation, the amounts from the Provincial Funds of Environment Protection and Water Management will also cover the expenses connected with the preparation of afforestation plans.

The above-mentioned non-budgetary means are currently the main sources of financing designated for afforestation of lands that are not the property of the State Treasury.

The flow of information and financial resources for afforestation is illustrated in the diagram attached.

**Schema of the Financing System of the National Program for the Augmentation of the Forest Cover in Poland
(Flow of Information and Financial Means of Afforestation)**



PRIVATE FOREST OWNERSHIP IN ROMANIA AND SUPPORT FOR MANAGEMENT OF PRIVATE FORESTS

BY IOAN VASILE ABRUDAN, CARMEN ENESCU AND GHEORGHE. PARNUTA

Private forest ownership in Romania

According to the Governmental Ordinance 96/1998 approved by Law 141/2001 there are four types of non-state forest ownership in Romania: (i) individual forest owners; (ii) community ownership (a type of undivided common ownership); (iii) education institutions/church ownership; and (iv) town/commune ownership. Although up to 1 ha of forest was restituted in early 90's to about 400,000 pre-1948 individual forest owners (according to Law 18/1991), only after the promulgation of Law 1/2000, a significant forest restitution process –including the other types of forest ownership - was initiated in Romania. According to this law, the restitution limits are: 10 ha for individual owners; all previously owned forests for the communities (but not more than 20 ha per member) and towns/villages; and 30 ha for educational institutions and churches.

Currently circa 3 million hectares were claimed to be restituted. By the beginning of April 2003 1,997,910 hectares have been proposed to be restituted by local commissions for restitution. Of these, the county commissions had validated 1,730,743 hectares; 1,483,583 hectares were deemed to be eligible for restitution by the local commissions and 1,370,940 ha were actually restituted (Table 1). This increased the percentage of non-state forests to 28%. When restitution is complete, the number of private forest owners (including the existing circa 400,000 small-forest owners under previous restitution) is expected to exceed 0.6 million.

Table 1- Area restituted by 1st of April 2003, according to Law 1/2000

Ownership Type	Area (ha)	
	Claimed	Restituted
Private individuals	916,036	191,352
Communities/undivided private ownership	725,857	430,014
Churches, education institutions	65,407	35,809
Municipalities, towns, communes	1,280,763	713,765
Total	2,988,063	1.370,940

Source: Buletin informativ martie-aprilie 2003, RNP, Bucuresti, 2003

Legal provisions regarding the state support for forest owners

The existing Romanian legislation includes specific provisions concerning the support for the management of private forests. Article 29 of Law 141/2001 defines the activities eligible for funding from the central budget (by annual allocation): (i) the reconstruction of the forest areas affected by natural calamities or fire, (ii) the protection against diseases, (iii) the management planning for the forests belonging to individual owners, (iv) the development of the scientific background for the private forest management options; (v) the dissemination of the technical norms and regulations as well as the public awareness for the private owners; (vi) the compensation of the private owners for the loss incurred by the management of their protection/protected forests and (vii) the administration of private forests (when they are managed by forest districts) when the income resulting from the application of the management plan is lower than the cost of the activities carried out according to the provisions of the management plans.

State support for private forest owners

In the last decade the state support for the non-state forests has been extremely limited. In the last years it mainly consisted in providing some free seedlings (in regions where National Forest Administration had a surplus) and some technical advice for afforestation work. In 2000, the Ministry of Waters, Forests and Environmental protection started to provide some support for development/review of the private forest management plans and this effort was continued by the Ministry of Agriculture, Food and Forests (where the Department of Forests were moved) in 2001 and 2002, when about 5 billion RoLei and 10 billion RoLei respectively were allocated for this activity.

In the last years there have been several small projects supporting directly or indirectly the local associations of private forest owners, funded by international donors or foreign governmental agencies (World Bank via the Agricultural Support Services Project, European Community, United States Agency for International Development, US Department of Agriculture etc.).

Significant support for private forest owners is expected in the following years via two major projects: the Forest Development Project (World Bank loan), expected to be implemented in the period June 2003 - May 2008 and the EU SAPARD Program (Forestry Measure 3.5) in the period 2004-2007. The Forest Development Project (FDP) includes assistance for the Association of Private Forest Owners (APPR) - the national umbrella organization - as only support for local forest owners associations is eligible under EU SAPARD. FDP will initially provide technical assistance to the APPR at the national level to prepare a five year business development plan identifying: (i) the potential membership profile and actions needed to recruit new members; (ii) the range of services needed by members that will be provided by APPR, and (iii) a funding and cash flow analysis.

Subject to approval of the business development plan by the Department of Forests and the World Bank, the project will provide the national APPR with the following investments:

(1) Human Resources, including core professional staff, with the role to: catalyze and assist with the formation of member associations at the local and regional level; provide technical guidance to members and member associations (including: assisting members to apply for SAPARD grant funding to support core financing needs; providing awareness raising information and training to members and potential members to promote sustainable forest management; and informing members of technical, policy and legal developments with relevance for the forest sector); provide technical input to APPR publications; represent APPR at meetings and fora; and provide administrative assistance

(2) Physical Resources, including basic office equipment and vehicles necessary for the National APPR staff to function efficiently.

(3) Publications, Brochures and Newsletters, which will be developed for informational and APPR promotional purposes, targeting members and potential members rather than wider audiences.

An essential activity of the APPR will be to facilitate establishment of regional and local member associations of forest owners. Once established, the National APPR will provide assistance to member associations in applying for grant funding under the EU SAPARD Measure 3.5. This will be a significant incentive for the expansion of the APPR membership and will also provide funding to substantially expand the range of extension and management services at the local level. FDP will also support the establishment of community based Associations of Local Forest Owners (ALFOs).

This activity will focus on providing targeted community development assistance in areas with high levels of poverty where forest lands will be restituted to individual owners, joint common owners and communal owners (at the village and commune level) that

currently have limited capacity to organize. The project will provide resources to: facilitate establishment of about 90 ALFOs, having administrative authority for a total area of approximately 400,000 ha of private forests, during the first two years of project implementation; assess the need for additional community development work to support development of ALFOs and expand the program to establish about 160 ALFOs, having administrative responsibility for a total area of approximately 600,000 ha of private forest land, by year six; and monitor the progress and effectiveness of operation of ALFOs and provide technical support where necessary.

Significant support for non-state forest is also foreseen in the EU SAPARD Program – Measure 3.5 (Forestry), which represents the largest investment support in the private forestry in Romania (estimated to 160 million Euro EU and Romanian Government contribution till 2007). Six major activities (sub-measures) will be financed, as follows:

- Support for the establishment and development of local forest owners associations (main conditions: the minimum forest area owned by the association: 100 ha in the plain, 300 ha in the hilly area and 500 ha in the mountains; the existence of a forest management plan with clear delineation of the forest holdings; minimum number of administration staff employed)
- Forest nurseries establishment and modernisation (main conditions: minimum 3ha for broadleaved and 0.5 ha for conifers; utilisation of certified reproductive material);
- Afforestation of agricultural land and tending operations in young plantations (main conditions: minimum 5 ha, maximum 50 (200) ha; minimum two species to be planted on each plot);
- Extending the forest road network (main conditions: the minimum length of the forest road: 1km; the road should create/improve accessibility to a minimum area of 200 ha; the total cost per kilometer should not exceed 100,000 Euro);
- Support for private logging/transport/primary wood processing companies (main conditions: Romanian legal entity operating in the rural area; licensed logging/transport company);
- Improvement of the processing and marketing of forestry products (main conditions: maintenance of the number of employees (at least 5); the products should be in accordance with the existing product quality standards);

Conclusion

Recent years have brought significant changes in forest ownership in Romania (28% non-state forests by April 2003 and about 600,000 forest owners) and the forest restitution process is still ongoing. In the last years the state and foreign support for forest owners has been very small (mainly for forest management planning and afforestation) but it is going to increase significantly in the next years via a World Bank loan and the EU SAPARD Program.

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RECENT ASPECTS OF THE RESTITUTION PROCESS OF FOREST LANDS IN ROMANIA

BY GHEORGHE PÂRNUȚĂ

Abstract

The restitution process of the ownership right over forest lands develops according to Law no.1/2000 and its procedural amendments approved in July 2002. Until 30th of March 2003, the forest area proposed for validation by the local commissions was 1,997,910 ha representing 31.5% of the total forest area, of which 46.7% are for administrative-territorial units such as communes, towns, county capitals, 32.3% for former association groups, 17.3% for natural persons, and 3.7% for religious and teaching institutions. The county commissions have validated 86.8% of the proposed area, and for 13% of the validated area objections have been submitted.

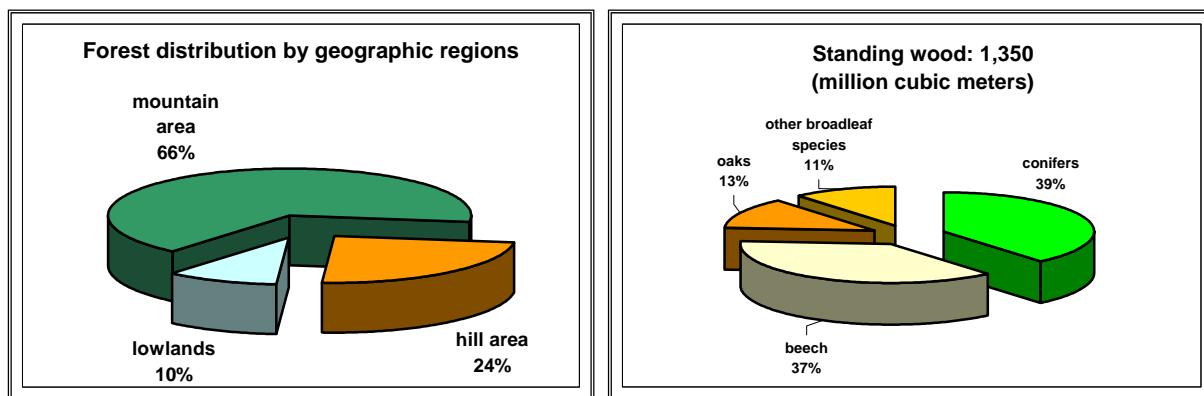
The total forest area actually restituted is 1,370,940 ha, of which 52% for administrative-territorial units, 31.4% for former association groups, 14 % for natural persons and 2.6% for religious and teaching institutions. The forests restituted to the former owners are managed by the National Forest Administration through local forest districts based on administration contracts, or are managed by the owners through private forest districts similar to the state forest districts. Until now, the Ministry of Agriculture, Forests, Waters and Environment (MAFWE) has authorized 29 private forest districts, which manage 243.908 hectares of forests. The restitution process of ownership on forest lands is monitored every three months by the MAFWE and is scheduled to be completed by the end of 2003.

Introduction

The Romanian flora and forests are characterized by richness and great diversity of species: 3,100 species, 540 subspecies and varieties; 60 native species of forest trees and numerous species of forest shrubs. At the same time Romanian forests show a high average production per hectare and are among the first countries in Europe in respect of standing wood volume and productivity of conifer and beech stands. The national forest area accounts for 6.3 million hectares, or 27% of the total country territory. Forest composition is: Broadleaved species 70.1%, of which: beech (31.5%), oaks (18%), other hardwoods (15.7%), other softwoods (4.9%); - Coniferous species 29.9%, of which: spruce (22%), silver fir (5%), other conifers (2.9%). The average volume of wood per hectare is 217 m³, average annual increment per hectare 5.6 m³, and the forest surface per inhabitant amounts to 0.27 hectares.

Legal framework on restitution process of forest land

The legislation framework in forestry and environment protection in Romania has been recently strengthened by the issuing of new normative acts, very important for these sectors. The final form of the Law on the process of giving back forest and agricultural lands [1] has been approved recently (July 2002), together with the Rules and regulations on the set-up procedure, the attributions and functioning of the commissions establishing the private ownership right on lands, on the process of granting the property titles, as well as on the on-field process of giving the lands to the owners [2]. Procedural amendments have been established by the new normative acts. Thus, the former owners have requested from the local commissions the restitution of the ownership right on forest lands. A county commission analyzes their requests, and lands that are validated are notified to the local commissions and the former owners can receive their lands back.



The former owner makes his request for restitution of forest land based on the proving documents to a local commission, set up of representatives of local councils, forest districts and topography expert. The requests validated by the local commission will be sent to the county landscape commission for analysis and decision. The county commission is set up of representatives of the county council, territorial inspection for forestry and hunting, the County Forestry Branch (CFB) and the Forest Research and Management Institute (ICAS). The County Commission analyses the request and takes a decision that can be contested by the CFB/ICAS or the former owner. The dispute will be solved by a Court which will issue the final decision. The forest areas validated for the owners are given in possession by the Local Commission until the deed of property is issued by the County Commission.

Application stage of the law on restitution of forest lands

Until 30th of March 2003, the forest area proposed for validation by the local commissions was 1,997,910 ha representing 31.5% of the total forest area. 46.7% of this area was attributed to administrative-territorial units such as communes, towns and county capitals, 32.3 % to the former association groups, 17.3% to natural persons, and 3.7% to religious and teaching institutions. The county commissions have validated 86.8% of the proposed area, and for 13% of the validated area objections have been submitted.

The total forest area restituted is actually 1,370,940 ha, of which 52% for administrative-territorial units, 31.4% for former association groups, 14% for natural persons and 2.6% for religious and teaching institutions. According to the law, compensations are given to the owners who, due to reasons clearly stated in the law, cannot receive the lands, neither on their former locations nor in any other area. The giving back of the properties is performed based on legal documents such as ownership papers, land registers, forest management plans and not on official statements from witnesses. The restitution process of the forest lands ownership is monitored every three months by the Ministry of Agriculture, Forests, Waters and Environment (MAFWE) and is scheduled to be completed by the end of 2003.

Management of private forests

The forests restituted to the former owners are managed by the National Forest Administration, through local forest districts, based on administration contracts, or they are managed by the owners through private forest districts, similar to the state forest districts. Until now, the Ministry of Agriculture, Forests, Waters and Environment (MAFWE) has authorized 29 private forest districts, which manage 243,908 hectares of forests.

The management and harvesting of forestlands returned to their owners will be done according to forestry rules provided for by the law [3]. The forests mutually owned will be

maintained as indivisible properties as long as the association group exists and can be transferred through legal inheritance.

Table 1. The application stage of the law on restitution of forest lands

Categories of owners	Forest land surface (ha)			
	Validated by:		Restituted to the former owners by local commissions	
	Local commissions	County commissions	(ha)	(%)
Natural persons	345,670	298,480	191,350	14.0
Former Associations Groups	646,020	583,380	430,010	31.4
Religious and Teaching Institutions	73,740	61,470	35,810	2.6
Administrative-territorial units (communes, cities, towns)	932,480	787,430	713,700	52.0
TOTAL	1997,910	1730,740	1370,940	100.0

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- 1) Legea nr.400/2002 pentru aprobarea Ordonanței de urgență a Guvernului nr. 102/2001 privind modificarea și completarea Legii nr. 1/2000 pentru reconstituirea dreptului de proprietate asupra terenurilor agricole și celor forestiere, solicitate potrivit prevederilor Legii fondului funciar nr. 18/1991 și ale Legii nr. 169/1997, precum și modificarea și completarea Legii nr. 18/1991, republicată (Monitorul Oficial al României, partea I- nr. 492 / 9 iul. 2002) [Law 400/2002 approving the Emergency Government Ordinance 102/2001 for restoring the ownership right over agricultural and forest lands, claimed according to the regulations of Law 18/1991, republished (Official Journal of Romania, first section no. 492/9 July 2002)]
- 2) Hotararea de Guvern nr. 1172/2001 pentru aprobarea Regulamentului privind procedurile de constituire, atributiile si functionarea comisiilor pentru stabilirea dreptului de proprietate privata asupra terenurilor, a modelului si modului de atribuire a titlurilor de proprietate, precum si punerea in posesie a proprietarilor (Monitorul Oficial al României, partea I-nr. 829/21 decembrie 2001 [Government Decision 1172/2001 approving the Rules on the procedures for the set-up attributions and functioning of the commission for establishing the right for private ownership over lands, the model and manner to confer the ownership deeds, and to put them in practice (Official Journal of Romania, first section no. 829/ 21 December 2002)]
- 3) Legea nr. 75/2002 pentru modificarea si completarea Ordonantei Guvernului nr. 96/1998 privind reglementarea regimului silvic si administrarea fondului forestier national, republicata (Monitorul Oficial al României, partea I nr.74/31 ianuarie 2002) [Law 75/2202 on changing and completion the Government Ordinance 96/1998 on regulating the forestry regime and the management of the national forest area (Official Journal of Romania, first section no. 74/31 January 2002)]

TRANSPPOSITION OF COUNCIL DIRECTIVE 105/1999 ON MARKETING OF FOREST REPRODUCTIVE MATERIAL INTO ROMANIAN FOREST LEGISLATION

BY CARMEN ENESCU

In Romania, forests cover 27 % of the country surface and fulfill a multifunctional role based on their social, economic, environmental, ecological and cultural functions. There is a need for specific approaches and actions for different types of forests, recognizing the wide range of natural, social, economic and cultural conditions of the different regions. Both restocking of these forests and new afforestation require sustainable forest management in relation to the Forestry Strategy of the European Union, as set out in the Council Resolution of 15th December 1998.

Forest reproductive material of tree species and artificial hybrids, which are important for forestry purposes should be genetically suited to the various site conditions and of high quality. The conservation and enhancement of biodiversity of the forests including the genetic diversity of the trees is essential to sustainable forest management. Research has shown that, if forests are to be of increased value including the aspects of stability, adaptation, resistance, productivity and diversity, it is necessary to use forest reproductive material which has to be genetically and phenotypically suited to the place of use and of high quality; forestry seeds should meet, where appropriate, defined quality standards.

For the transposition of the Directive 105/1999 into Romanian forest legislation a draft law has been elaborated in 2002. It concerns production, certification, marketing and use of forest reproductive material according to criteria based on a research study made by the Forest Research and Management Institute. The provisions of the draft law refer to genetic and phenotypic characteristics of forest seeds and plants, and to external qualities of forest reproductive material. They take into account the practical needs and are to be applied only for those species and artificial hybrids which are important for forestry purposes.

According to the General Declaration of the Third Ministerial Conference on the Protection of Forest in Europe in Lisbon, for reforestation and afforestation, origins of native species and local provenance that are well adapted to site conditions should be preferred. In some Member States of EU the use of forest reproductive material of the category “source-identified” is traditionally compatible with the climate and indispensable for forestry purposes and it is therefore appropriate to approve the marketing of such material in the Member States wishing to do so.

As regards Community reproductive material, approval of basic material and, consequently, demarcation of regions of provenance are fundamental to the selection. The Member States should apply uniform rules imposing the highest possible standards for the approval of basic material. Only reproductive material derived from such material should be placed on the market. Genetically modified forest reproductive material should not be placed on the market unless it is safe for human health and the environment.

It is necessary to ensure that, in addition to possessing the required phenotypic or genetic quality, reproductive material which is intended for collection and delivery to the end user is certified. Seed will be marketed only if it conforms to certain quality standards and is contained in sealed packages. The public authority for forests has the obligation to take all appropriate measures to fulfill the requirements regarding identity and standards of external quality of forest reproductive material.

On the other hand, the public authority for forests can take prohibitive measures regarding the introduction on the internal market of forest reproductive material considered unsuitable for use in Romanian territory. During periods in which there are temporary

difficulties in obtaining supplies of certain species of reproductive material complying with the principles of the directive, reproductive material satisfying less stringent requirements should, subject to certain conditions, be temporarily approved.

Forest reproductive material coming from other countries cannot be commercialized in Romania, if it doesn't fulfill the same requirements with those imposed on the internal market, regarding the approval of the basic material from which is obtained and the rules of collection according to international regulations. The Romanian draft law has provisions for actions that constitute offences or minor offences.

The objectives of the Council Directive are fully covered by the Romanian draft law. Being an obligation assumed in the Position Paper of Romania for the chapter Agriculture, subchapter Forests and forestry, this draft law will be approved until the end of 2003.

In addition to the draft below we can mention that in 2001 it was approved, by Ministerial Order no. 269/2001, the "National Catalog of sources for the forest reproductive material in Romania". This Catalog has been amended by Ministerial Order no. 481/2002.

Regarding the control of quality of forest reproductive material used in culture the Ministerial Order 146/2003 nominates as the responsible authority, being empowered with this control, specialists from the public authority for forests and territorial inspectorates for forest and hunting regime. By the same order, the Forest Research and Management Institute has been appointed as the responsible authority for certification of forest reproductive material destined to international trade, as stipulated by the rules of the Organization for Economic Cooperation and Development.

Altogether the measures adopted recently in Romanian forest law have considerable importance in view of maintaining or creating forest types more resistant to the increasing aggressive action of environmental factors and for sustainable forest management.

LEGAL AND POLITICAL ASPECTS OF FORESTRY IN SERBIA

DUSAN JOVIC, DRAGAN NONIC, MIRJANA STANISIC

Abstract

The total surface area of the Republic of Serbia (8 836 100 ha) is covered by forests outside (2 579 413 ha) and within the national parks (75 159 ha). Five percent of Serbia's territory is regulated for nature protection, and the Landscape Management Plan of the Republic of Serbia projects to include 10% of the territory by the year 2010. Five national parks (Fruska Gora, Kopaonik, Tara, Sarplanina, Djerdap Iron gate, 120 nature reserves, 20 nature parks and about 470 natural monuments have been protected so far, as well as 215 plant and 427 animal species designated as natural rarities in Serbia. The legislation relevant for management of forests in the national parks of Serbia is contained within the Environment Protection, the National Parks and the Forests Acts.

According to the Constitutional Chart of The State Union of Serbia and Montenegro, the laws of the Federal Republic of Yugoslavia regarding the affairs of Serbia and Montenegro shall be applied as the laws of Serbia and Montenegro. This is applicable for international agreements as well.

Key words: Region of west Balkan, forestry, legislation, international conventions, harmonization, EU.

Forest resource structure

The total area of Serbia is 88361 km². Forestry land, plantations and forest cultures are about 2,412,940 ha. Forest coverage amounts to 26%, and increases from the North to the South of the country. Forestry areas per capita vary considerable in the country (0,23 ha per capita for Serbia, 0,05 ha per capita for Vojvodina and 0,20 ha per capita for Kosovo).

T-1. AREA UNDER FORESTS AND FOREST DENSITY

Territory	Total area	Forest area		Forest density
	thous. ha	thous. ha	ha per inhabitant	%
Serbia	8836	2313	0.23	26.2
Central Serbia	5597	1781	0.31	31.8
Vojvodina	2150	103	0.05	4.8
Kosovo & Metohija	1089	429	0.20	39.4

Source: Statistical Bulletin „Šumarstvo“ (Forestry) № 2191

Broadleaved trees represent 91%, conifers 6% and mixed stands 3% of the forest. Beech is the main broadleaved species followed by oak. In terms of area, natural high forests cover 438,117 ha (39.5%), coppice forests 382,146 ha (34.4%), shrubs 123,644 ha (11.1%) and reserves 1,344 ha (0.1%).

In Serbia, there are five national parks, Tara (19,175 ha), Đerdap (63,610 ha), Kopaonik (11,809 ha), Fruška gora (25,525 ha) and Šar-planina (39,000 ha) spread on 159,119 ha, which is equal to approximately 7 % of the area under forests in Serbia or to about 2 % of its total territory. All of them are within forest complexes and forests are their main vegetation.

Forest ownership structure

The Forest Decree from 1861 established four categories of ownership: state, common, municipal and private forests.

In 1891, the Law on Forests was passed in order to regulate the relations of forest users and to create the basis for an adequate ownership regulation. Both the people and the state admitted that these relations needed to be regulated. As a consequence the first article of the Law (1920) states: „...forests (mountains, woods, preserves) in Serbia are state, municipality, village, church and privately owned”. The law introduced two new categories of ownership (village and church), and what had previously been common property was declared state property.

According to the data from 1938 (Forest & Forest Economy Statistics) the structure of ownership in Serbia (out of the 1,561,000 ha) was as follows: State owned forests 323,000 ha (21%), monasteries owned 29,000 ha (2%), village and municipal 501,000 ha (32%) and private forests 708,000 ha (45%).

Throughout the period after the World War II, parallel with the formation of the new government and system changes, changes of ownership and legislation in forestry have also taken place.

The first step towards it was a formation of commons, i.e. public ownership of forests from those, which previously belonged to the state, communes, monasteries and churches, and to individuals, based on surface that exceeded the legal maximum. Villages and municipal forests ceased to exist as an ownership category, because they had been conjugated to the state forests.

The Law on Forests of SR Serbia from 1989 brings formation of public enterprises for forest management for public forests belonging to forest-economic areas. The Law does not clearly define the managing organs. In addition, it made not clear whether the public enterprises were going to be based on the social, state or some other forms of ownership.

The State owns 51.5% (1243407 ha) of the forests. The remaining 48.5% (1169940 ha) is in private ownership¹.

T-2. FOREST FUND IN SERBIA BY OWNERSHIP (1989)

Owner	Area		Volume		Volume increment	
	thousand ha	%	mill. m ³	%	thousand ha	%
TOTAL	2462	100.00	257	100.00	7184	100.00
SE „Srbijašume”	1272	51.67	136	52.92	3968	55.23
SE „National park”	75	3.05	13	5.06	371	5.16
SE „Borjak” Vrnjačka Banja	8	0.32	2	0.78	41	0.57
Waterworks and agricultural organisations	23	0.93	3	1.17	80	1.11
Faculty of Forestry educational bases	6	0.24	1	0.39	27	0.38
State and social owned forests	1384	56.21	155	60.31	4487	62.46
Private property forests	1078	43.79	102	39.69	2697	37.54

Source: Statistical Bulletin „Šumarstvo“ (Forestry), № 1288

Privatization or restitution of forestland is not an issue in Serbia now, though suggestions are being made that church forests should be returned to their original owners.

¹ Due to the events of the past ten years, there is a lack of up-to-date information and statistical data on forestry, in particular on the private forestry and forest industry sectors. In many cases, statistics from different sources on the same subject were either contradictory or inconsistent. A further confusion arose from the fact that some data provided included Kosovo, others did not.

There are about 500,000 private forest owners in Serbia holding some five million parcels in 7,500 registered municipalities. The average area of forest holdings is less than 0.5 ha, often as small as 20-30a. In most cases, the holdings are irregular in shape, long and narrow, resulting from the division of holdings among their owners.

Forest Related Legislation

By the Constitution of the Union State of the Serbia and Montenegro many competencies of the former federal state were relegated to the republic's decision level.

The list of laws related to forestry is as follows:

- Law on Forests ("Official Gazette of RS", No.46/91, 83/92, 54/93, 67/93 and 48/94, 54/96)
- Law on Hunting ("Official Gazette of RS", No. 39/93, 44/93, 60/93)
- Law on Seed and Seedlings ("Official Gazette of RS", No. 54/93).

Altogether there is a firm legislative- and regulation frame for forestry in Serbia (Forest law 1991, with modifications and supplements until 1997, as well as sub law regulations) which, in principle, provides for sustainable forest management, forest protection and improvement of forest functions. The Forestry Act establishes the manner and conditions of protection, use, progress and management of forestry and forestland and other potentials of forests (which is the management framework of the Act).

Parts of the Act are:

- general regulations (term determination - forest, forestland, forest area...),
- public enterprise for forest management (establishing of „Srbijašume” enterprise, sphere of activities, establishing means and work, administrative organs and their function, statute...),
- forest management (establishing of the forest areas, concept of forest management, planned evidence in forest management, raising, advancing and using of forests, means for forest reproduction),
- special measures for protection of the forests (plan for protection of fires, forest order, forest protection service, authority watchman of forests, establishing of the common use functions of the forests, evidence of forests and forest land...),
- turnover, rent and redistribution, forestry inspection (supervision on carrying out of regulations of this Act and on carrying out the measures, which are established by the user of the forests, and supervision of the plant protection regulations, duties and authority),
- prosecution regulations, transitional and final regulations with forest and forest land (forest areas) inventory (harmonization of the present regulations with this Act, forest and forestland inventory).

Although, the Forest law includes different regulations favoring sustainable forest management there are also regulations, which disable or make it difficult. It should be emphasized, that some important regulations concerning the enabling of sustainable forest management in the law are not implemented, as well as that the level of realization of key-regulations for sustainable forest management is generally low. In addition, there is a problem with other laws, which are related to forests and forestry and are not sufficiently harmonized with the forest law.

Environmental Protection Act

The list of laws related to Environmental Protection is as follows:

- Constitution of the Republic of Serbia ("Official Gazette of RS", No. 1/90)
- Spatial Plan of the Republic of Serbia

- Law on Environmental Protection ("Official Gazette of RS", No. 66/91, 83/92, 53/93, 67/93, 48/94, 53/95)
- Law on National Parks ("Official Gazette of RS", No. 39/93, 44/93, 53/93, 67/93, 48/94)
- Law on Forests ("Official Gazette of RS", No. 46/91, 83/92, 54/93, 67/93 and 48/94, 54/96)
- Law on Seed and Seedlings ("Official Gazette of RS", No. 54/93)
- Law on Fisheries ("Official Gazette of RS", No. 35/94, 38/94)

Among others, the competencies for environmental subjects of all federal laws did become part of the republic's legal system. The same refers to all competencies of the former federal state, which are not now explicitly defined by the Constitutional Charter. Yugoslavia has ratified 64 international environmental agreements and few of them are closely related to forestry and forest protection.

The system of legislation on environmental protection in the Federal Republic of Yugoslavia, now in Serbia and Montenegro, comprises a large number of laws (over 150) and regulations (over 100). At the Union level there is only the Resolution of the Union State of the Serbia and Montenegro as a common document for both republics. Other laws such as the Resolution on Environmental Policy in the FRY, the Resolution on Biodiversity Protection in the FRY, and the Law on GMO are now in the competency of the republics and regulated by the existing republic laws.

In the Republic of Serbia there are several legal acts relevant in the present context: the Constitution of the Republic of Serbia which provides for the system of environmental protection with advancement, promotion and protection of flora and fauna; than the Spatial Plan of the RS, the Law on Environmental Protection, the Law on National Parks, the Law on Forests, the Law on Hunting, the Law on Waters, the Law on Agricultural Land, the Law on Seed and Seedlings, the Law on Fisheries; Regulations on Environmental Impact Assessment of Facilities and Works, and Regulations on Handling of Waste Products of Hazardous Substances.

In June 2001, the Government of the Republic of Serbia adopted a Conclusion which obliged the former Ministry of Health and Environmental Protection to prepare a *Law on the System of Environmental Protection* (within an OSCE project on draft legislation) that would comprise management and sustainable use and protection of natural resources, and introduce environmental principles regarding air, water, soil, flora, fauna, biodiversity, protection from and ionized and non-ionized radiation, and handling of hazardous and other waste materials. The former Department for Environmental Protection was assigned to prepare a draft for the establishment of a new *Ministry for Protection of Natural Resources and Environment* as support for the implementation of the new law. The Ministry was established in May 2002.

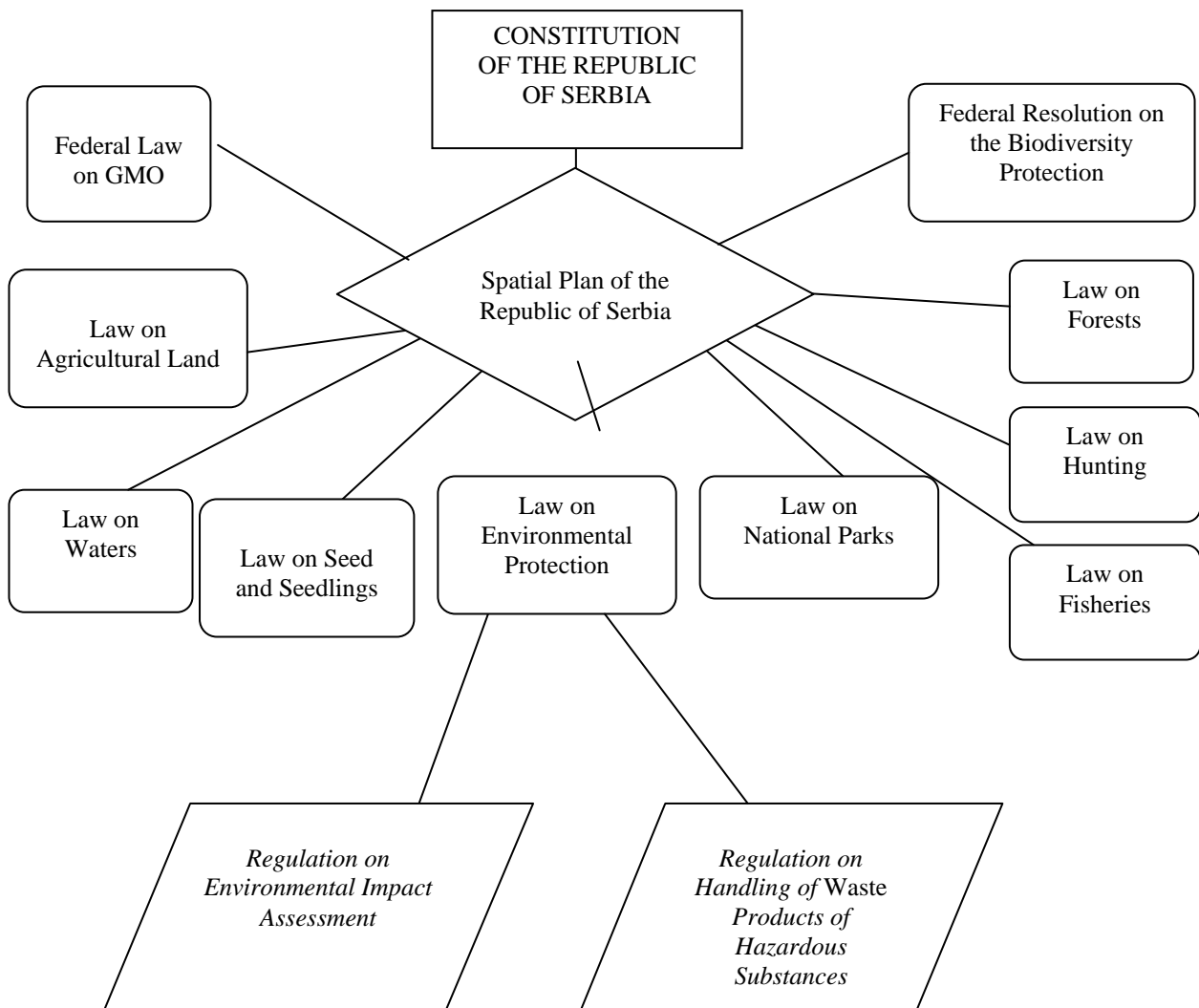
Based on the above mentioned Conclusion the new *Framework Law on the System of Environmental Protection* will establish integrated environmental management to ensure prevention and control of environmental pollution and protection and sustainable use of natural resources.

The nature protection concept in Serbia is established primarily for the purpose of preservation and protection of characteristic areas (localities) as individual ecosystem representatives.

Institutions

The political changes that culminated in October 2000 have laid the foundations for making a clear break with the past decade of economic decline. They have done so by creating the basis for social and economic reforms, as well as for enhanced donor support.

The institutional aspects of forestry in Serbia can be divided into a number of interrelated components such as policy, legislation, organizational structure, education, human resource development, research, extension and public relations.



State administration in forestry

The *Ministry for Protection of Natural Resources and Environment* together with a *Directorate of Forests* have been established in May 2002 with a concept of structuring for effective ecological support to the economic reforms and development, privatization and infrastructure projects.

Management of state forest

Under the provisions of the Forest Law, SE „Srbijašume” manages all forest districts. Its responsibilities include:

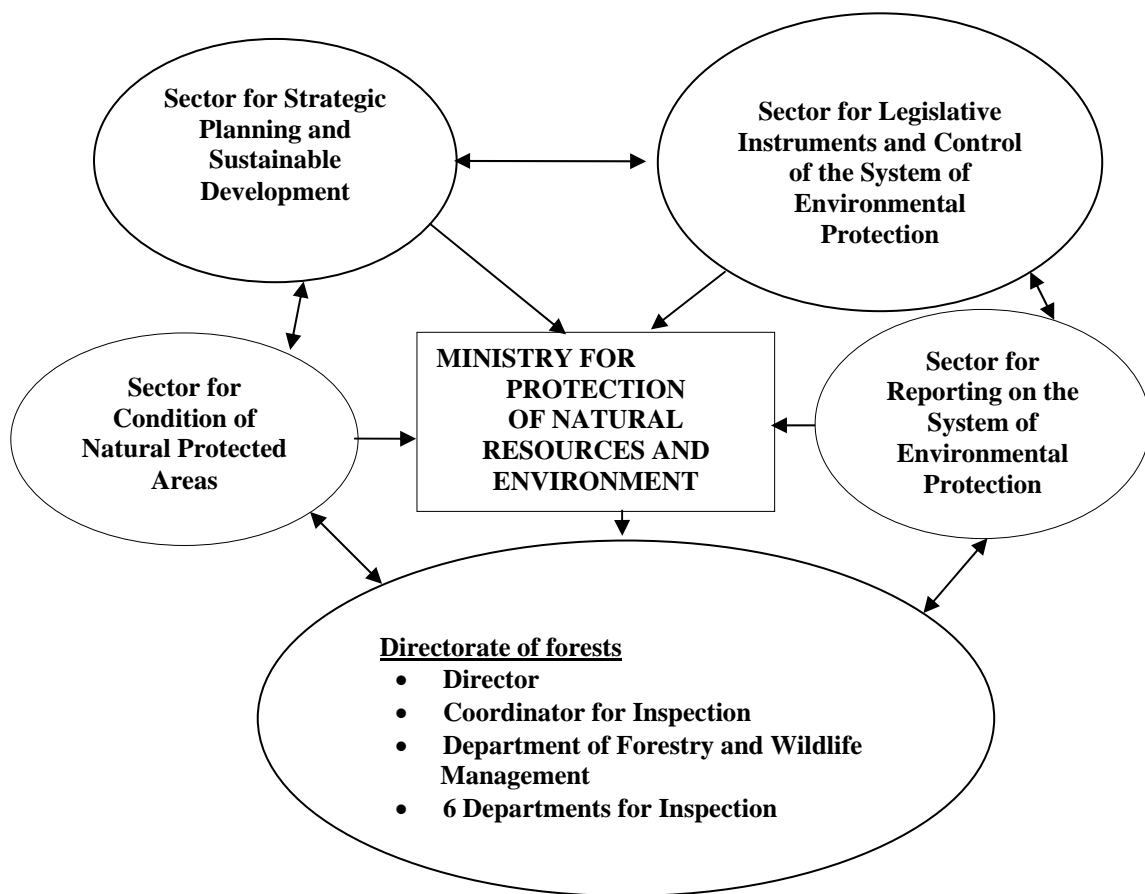
- Cultivation, protection, conservation and utilization of forests;
- Raising and utilization of game;
- Engineering, construction and maintenance of forest roads;
- Preparation of management programs and plans;
- Technical operations in private forests;

- Advancement and utilization of public-beneficial functions of forests;
- Wholesale and retail trade in forest products.

Public enterprises are entrusted under the Forest Law with the performance of professional and technical operations in the management of private forests. Prior to the enactment of the Forest Law of 1991, municipalities were responsible for these operations. Private forests are now managed in accordance with the principles and programs of private forest objectives laid down in the annual schedules of management.

The PE „Srbijašume” is organized at three levels:

- Head office in Belgrade
- Forest Districts
- Forest Management Units (Field Directorates).



Institutional elements as important precondition for sustainable management which do not yet exist, are, for instance, the following ones:

- A special department for the private forest sector inside the SE „Srbijašume” or an independent forest service in the Ministry;
- A state forest frame (for example a Forest-fund) for centralized financing of forest reproduction;
- A state forest institution (for example a National Forest Institute) with a sufficient number of contemporary trained research staff;
- Forest NGOs that would be independent from government policy.

It is important to underline, that in accordance with the process of decentralization and reorganization of SE „Srbijašume”, a new enterprise for managing state forests in the province Vojvodina is to be formed (SE “Vojvodinašume”). There are more requirements for forming similar enterprises in other regions.

Non-governmental organization in forestry

There are several non-governmental organizations involved in forestry or forestry-related activities. The main ones are:

- Forestry Movement of Serbia
- Serbian Association of Hunters
- Yugoslav Association of Forestry and Wood Industry Engineers and Technicians
- Chamber of Commerce
- Independent forestry-environmental association ECOSYLVA²
- Center for ecology and sustainable development (CEKOR)³, etc.

Conflicts and problems in forestry and nature protection

Forest resources have a significant role in sustainable development of the economy in Serbia. Yet, many of the economic potential is not fully used. The capacity of the wood processing industry is bigger than it's actual operations. In addition, other natural resources beside timber production and natural values could be used much more. The management of natural resources has direct impact on production and employment.

Main user groups of natural resources

During the last decade the structure of the main user groups of natural resources has changed, or at least the way of resource utilization. Influences of other sectors did induce increased unemployment and social instability especially in rural areas. An additional load which contributes to social instability of the local population is at present the large number of refugees and internally displaced persons throughout Serbia combined with restructuring processes of enterprises. Nowadays, the ownership of the forests is not the only relevant criteria, but also very important in categorization of main user groups of natural resources. The following Table shows the main Serbian stakeholders and their main interest.

Competitive institutions and organizations for natural resource management (Ministry, SE "Srbijašume", SE National Parks) have recently been established or reorganized on the old structure basis. Though, the structure of human capital is enhanced, the present organizational structures are inefficient. Their possibilities to maintain management, planning and control of natural resources are still limited. There is no new forestry legislation to support reforms in the forestry sector. There is a lack of new appropriate legislation as there is a lack of clear forestry policy objectives.

² Independent forestry-environmental association ECOSILVA is established 2002, as the reaction of forestry experts on the unsatisfied condition in organisation and publicity work of Management bodies in the forestry sector in Serbia.

³ The Centre for Ecology and Sustainable Development is able to undertake independent research, training and consultancy on behalf of governments, public and non-governmental organisations of the Yugoslavia and other European countries. Centre is registered in Yugoslav Federal Ministry of Justice on December 27, 1999, as a non-profit making organisation. Centre is collective member of umbrella/network „Danube Environmental Forum Yugoslavia” (DEFYU)

T-3. THE MAIN STAKEHOLDERS IN FORESTRY, THEIR FUNCTION AND FOCAL INTERESTS

STAKEHOLDERS	FUNCTIONS	INTERESTS
A. Ministries		
Ministry for Protection of Natural Resources and Environment (MPNRE)	Normative and regulatory functions of forest administration	New forest policy and legislation Restructuring of state enterprises "Srbijašume"; Sustainable management of all natural resources
Ministry of Finance (MoF)	Facilitate the restructure of public enterprises	Restructuring of SE "Srbijašume" and National Parks
Ministry of Agriculture and Water Management (MAWM)	Rural development in general	Land use planning for forestations
Ministry of Education and Sports (MoES)	Development of forestry education	Improvement of vocational education
B. Enterprises		
SE "Srbijašume" (SS), State Enterprises	Operational management and control of forest and natural resources	Improve market position and relation to the government officials
National Parks (NP), Public Enterprises	Management of national parks	Development of the management and financial situation of national parks
Forest owners, Private	Use of forests own purpose - timber and fuel wood production	Income generation and sustainable management of own forestry
Wood-processing Industry (WP)	Improvement of production and efficiency	Improved management and technology. Increase margins
Tourism Industry (TI)	Provision of tourism and leisure services	Access to places of interest. Use of forest in sustainable way
C. Professional organizations		
Associations of forest engineers, hunters, forest industries, etc. – (P)	Promotion of the interest of their members	Promote interest of members
Chamber of Commerce (CC)	Preconditions for forest related enterprises	Promotion of wood-processing industry. Restructuring of forest state enterprises. Privatization of its non-core activities.
D. Education		
Faculty of Forestry of Belgrade University and forest related institutes (FoF)	Training, international cooperations and partnerships.	Curriculum development. Restructuring.
Vocational Schools (VS)	New labor education. Updating of skill of work force.	Curriculum development
D. Others		
Local communities (LC)	Improvement of sustainable development in rural communities	Employment and local income generation
Local people (LP)	Maintain forestry functions. Possibility to use non-wood forest products, fuel-wood and recreation,	Employment opportunities
NGOs	Promote some basic ideas on development in forestry	Sustainable use of natural resources

Actors of protection efforts (State, NGOs, etc.)

The Ministry for protection of natural resources and environment has normative and regulatory functions of forestry administration, and is one of the core priority institutions for adopting new legislation along the promotion of sustainable management of all natural resources. Since recently, the Forestry Directorate along with the Hunting Department, with all documentation, management plans, monitoring of implementation control, is part of the Ministry. SE "Srbijašume" and "Vojvodinašume" are responsible for the management of 52% of the total forest area, SE National Parks is in charge of sustainable management and development of National parks with their forests, including for financial matters.

Local people from forestry regions are directly involved by using secondary products for daily needs or trade (mushrooms, fruit, berries etc), and by using fuel wood for their livelihood. The indirect group of natural resource users should not be forgotten, e.g. NGO, with "Pokret Gorana" youth organization as the oldest one in Serbia. Further, there are scientific and educational institutions, vocational schools, faculties throughout Serbia, which explore natural resources. Tourism, especially hunting tourism, is already popular and successful, with strong intentions to further development.

The forest ownership structure is the biggest problem for efficient resources management. Private forest estates are small, with an average of 0.3 ha, and manage approx 5 mill parcels, on 1,078,000 ha, or 43.7% of total forest area. Private land owners use forests mainly for their own livelihood and have little or none cooperation. Unless owners do not regroup themselves in voluntary organizations like unions, associations or Chambers in order to defend and present their interests, tangible improvements in the sector are hardly to materialize. Government support policy is inadequate and only few time-real management plans were made. As support to the inspectors of the Ministry, engineers of forestry from SE "Srbijašume" have practically overall control of private forests. This practice presents constraints to the future development. Good cooperation and partnership between SEs and private forest owners is the only way to improve management.

Due to the 15 years of isolation from the international community, the forestry sector in Serbia is not yet in the position to track international development. New concepts and holistic approaches in economic, ecological, social and cultural dimensions are yet relatively unknown. The refers to new research in forestry and technical applications. War and consequences of social disruption did result with a decrease of actions in production and processing of wood, increasing the unemployment in forest regions. Private enterprises did use the situation with refugees by giving them low salaries and neglecting payment of social security and taxes.

From an environment protection point of view various types of pollution are a serious problem, especially in national parks and protected natural areas. Great quantities of different waste are left along roads and in the wood damaging flora and fauna, soil and water. The problem is obvious, especially around tourist sites. Emission from old machinery for logging pollutes soils and brooks. Due to bad management and administration, pollution effects around coal and lime stone sites are visible in the woods.

Field of main user groups in forestry and related industries dramatically has changed in the past 10 years. Unemployment and social instability significantly did increase in rural areas and influenced by factors outside of forestry sector. Few hundred of thousand of refugees and internally displaced persons are trying to find new residence in Serbia. Financial arrangement of budget policy during the war did move control over the logging from government to private persons. Painful restructuring previously planned and centralized economy in line with marketing orientation did provoke development degradation in forestry sector.

Conclusions

The present condition of the growing stock of Serbia is characterized by insufficient forest cover and stocking density, unfavorable forest structures with regard to silviculture and tree species, insufficient production fund, unfavorable stand conditions, unsatisfactory forest health state. The share of stands with scattered canopy and weeded area is high. This conclusion is proved by a high representation of coppice and degraded forests. Management of forests has been entrusted to two public enterprises, SE "Srbijašume" and SE "Vojvodinašume". Public enterprises are also involved in taking care of private forest management.

The objectives of the new Framework Law on the System of Environmental Protection are to implement EU environmental legislation and other international standards, for a unified regulation of environmental matters at the level of the Republic, and to introduce institutional management solutions to raise the level of organization, responsibility and efficiency.

The need for a new forest law for Serbia is urgent in order to integrate Serbian forestry in the modern process of European and world's forestry. The present law does not promote the introduction of action needed for the reform of the forestry sector. The new environmental frame law and a new forest law have to be compatible to each other and should put emphasis on forest protection, as well as on a complete reconstruction of forest policy and organization in Serbia.

With regard to protected areas, it should be emphasized that IUCN and national criteria have to be harmonized. In fact Serbia is now in the process of revision and harmonization of national criteria with IUCN criteria, which is also an obligation in accordance with the ratified Convention on Biodiversity. The need for investments in environmental protection is enormous. Financing for biodiversity conservation is provided by the national budget (0.012-0.23%) and the income from wood (mainly).

During the last few years, international cooperation has been intensified through various projects and aids from European countries and international organizations. FAO is in the process of preparing the intervention together with the competent Ministry for protection of natural resources and environment, with the aim to improve forest policy, forestry legislation, sector plans, combined with the provision of skills development and capacity building. The Organization for Security and Cooperation in Europe (OSCE) played an important role in the establishment of present Ministry, providing assistance for development of legislation, hazardous waste management, expenditure of environmental knowledge etc.

There are also the FORNET and TEMPUS projects – curricular development of the Faculty of Forestry of the University of Belgrade, with cooperation of Universities in Freiburg, Sarajevo, Sopron, Tirana and Zagreb. National cooperation among main user groups of natural resources should not be neglected e.g. Ministry, SE "Srbijašume", SE National Parks, SE "Vojvodinašume", private forest owners, Wood processing industry, local community, scientific and educational institutions etc.

Based on the findings and conclusions the following recommendations are made:

- Restructure and re-organize public forestry administration to ensure better co-ordination and harmonization of forestry-related responsibilities currently assigned to a number of government institutions;
- Draft a forestry policy and revise current forest legislation, ensuring their consistency and harmonizing them with EU resolutions, standards and regulations relevant to forestry;
- Harmonize forestry policy and legislation with national environmental and other forest-related policy and legislation;

- Develop new job descriptions for all posts in re-organized forestry administration, including necessary educational qualifications and experience;
- Advertise vacant positions and set up selection committees to evaluate applications and make recommendations for appointments;
- Promote the updating, upgrading and strengthening of existing forestry education and training institutions at professional, technical and vocational levels in terms of facilities, curricula, staff and equipment to meet the requirements of private forestry and a free market-oriented economy;
- Provide guidance and leadership in the revision of forestry curricula to bring them in line with recent advances in science and technology relevant to forestry and with the requirements of forestry business management in competitive marketing of forest products, especially in international markets;
- Promote the establishment of public education programmes in forestry and continuing education and in-service training for all categories and levels of forestry staff, paying special attention at the same time to the specific needs of the private sector including forest-based industries;
- To be realistic, planning and programming require reliable statistical information. Ensure, therefore, that a comprehensive forest information system, in harmony with the European Forestry Information and Communication System, is established to provide such information.

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SUSTAINABLE DEVELOPMENT AND FOREST MANAGEMENT IN THE REPUBLIC OF SERBIA – HARMONISATION OF STRATEGIES AT THE INTERNATIONAL AND NATIONAL LEVEL

BY SNEZANA M. PROKIC

Abstract

The concept of the sustainable development is directed towards preservation of natural ecosystems and rational utilization of natural resources as well as towards an increase of environmental and life qualities. In this sense to achieve sustainable development and higher life quality for all the people and countries should appease or bring to an end unsustainable methods of production and consumption. This can be performed by building up internal capacities, in particular by advances in science through an exchange of scientific and technological knowledge. Following the global sustainable development principles as well as the state of quality of the environment at global and national levels, reforms in the forestry sector of the Republic of Serbia are necessary.

National policy and strategy reforms should open ways for individual efforts in this field. This includes the development and strengthening of institutions and programmes for management, preservation and sustainable development of forests and forestry. Also, mechanisms of inter-sector policy co-ordination need to be improved. The existing methods of forest management are not sufficiently harmonised with the concept of sustainable development, so that forestry does not secure a wide spectrum of economic, environmental and social benefits. The paper highlights the role and importance of the resolutions adopted by the Fourth Ministerial Conference on Protection of Forests in Europe, as well as the initial steps towards an application of these documents in forestry and environment protection in the Republic of Serbia.

Key words: sustainable development, sustainable forest management, national forestry development strategy, protection of forests, environment protection.

Sustainable development principle and life and environment qualities

Starting from the fact that the notion of sustainable development is defined as the integral economic, technological, social and cultural development adjusted to the satisfaction and needs of present and future generations, it is interesting to note its reflection in the area of forestry. First of all, any sustainable development should be adjusted to the necessities of protection and promotion of the environment. Bearing in mind the interrelationship of forests and the environment quality, the following points are of importance:

- I identification and evaluation of negative implications of development activities
- II forecast of the risks due to processes endangering the environment
- III elimination of the causes of environment endangering
- IV ethic relationship towards the healthy environment for all generations
- V active environmental protection
- VI new consumer attitudes related to environmental product certification
- VII balanced demographic growth

These principles are indeed valid generally, but it is especially in the area of sustainable development and the corresponding management of forests that they show their importance to the highest degree.

Necessity of reforms

The necessity of reforms to be performed originates from different sources. In addition to the general harmonisation requirements, there are also local problems which contribute to their importance.

The volume of activities performed in the simple and extended reproduction and protection of forests during a year, as determined by the Forests Act, has to be proportional to the volumes of cutting performed in the preceding year. The proportion has to be adjusted with the existing forest management plans. The problem is, however, that the general planning and promotion of the state of forest ecosystems in accordance with the sustainable development principles requires certain transformations in research and planning.

It is generally recognized that ecosystem management, and consequently also the management of forests, is a holistic process, requiring diversified inputs. These come from different disciplines, sectors and interests, and represent information without which no correct collaborative decisions can be made. As a result of this necessity, the collaboration of different sectors needs to be promoted.

The limits should be determined to which wood production can proceed without risking the loss of the system's functional integrity. For this purpose, a wide information basis is required. Also, an understanding is necessary of the interrelationships that exist between the various components of the ecosystems, either natural (soil, water, vegetation forests, animals etc.) or man-made (urban, industrial, agricultural etc.) with a good knowledge of the ecosystem's structure.

Environmental impact assessments should be performed in the areas of wood harvesting. Unfortunately, it has not yet been achieved, and even worse – not even in the protected areas where a certain degree of wood harvesting is permitted.

Specifically, following the sustainable development principles as well as the state of quality of the environment at global and national levels, the reforms are seen as inevitable in the forestry sector in our country. The basic idea of the reforms is, that national policy and strategy should open the way for joint efforts in this area. These should include the development and strengthening of the institutions, reaching for a national program for management, preservation and sustainable development of forests and forestry and for improving the coordination mechanism of inter-sector policies.

Approach to reforms

Our country actively participated at the beginning of the '90s in all global initiatives related to the establishment of a new environmental policy and the creation of the sustainable development concept. As a result it signed the international documents in Rio in 1992, such as:

- Convention on Biodiversity
- Convention on Climate Change
- Principles of Management, Protection and Sustainable Development of All Types of Forests.

In the following the first measures were adopted in the area of environmental protection policy:

- Resolution on the Policy of the Environment Protection in the Federal Republic of Yugoslavia ("Sl.list SRJ" 31/93)
- Resolution on the Biodiversity Protection Policy in the Federal Republic of Yugoslavia ("Sl. list SRJ" 22/94)

Despite the strategic determination and necessity of establishing an integral approach to environment protection, the process was decelerated at the time of the UN embargo. In the meantime, however, the issues and problems of managing the forests in protected areas were considered. At the International Scientific Conference on Forest Ecosystems of National Parks, held at Mt. Tara in 1996, a wide consensus was reached resulting in the adoption of the Declaration and five Resolutions on Forest Ecosystems of the National Parks.

Further efforts were made mostly in the area of implementation of the ratified international conventions, especially in the area of environment protection, such as CITES etc. There is a strong interest also in ratification of other documents, such as the Bonn and Bern conventions.

Problems with co-ordination and inter-sector policies and the way out

Unfortunately, these efforts did not reflect themselves to a larger extent upon the forestry sector, despite the obvious importance of coordination between environment protection, forestry and other sectors. In that sense, the international convention considered to be of highest importance in the forestry sector is the Convention on Long-Range Transboundary Air Pollution and EMAP Protocol. According to the Geneva Convention, monitoring of forests is being performed at the 1st level of UN/ECE methodology, and it is the intention to establish monitoring of the other parameters at levels 2, 3 and 4 of this methodology.

In the area of protection of natural values and environment a system of legal norms has been built in the Republic of Serbia which is made up of more than 100 regulations. Authorizations within this system are divided according to sectors in different state institutions, public services and/or public enterprises. Such a system has not been able to perform harmoniously and consistently the protection of the environment, not to mention the necessary coordination among environment, forestry and other sectors.

Economic and other interests dictated the conditions and the way of utilization of natural resources and values without taking into account the direct or indirect influences upon the environment. The approach that has existed until now had as a consequence discordant plans and decisions at the levels of the Republic, a lack of coordination and actions of all the subjects in protection and preservation of the natural resources, values and the environment on the territory of the Republic of Serbia.

It is the hope to resolve these problems by setting up a new law by which sustainable management of natural values is established as well as protection and improvement of environmental conditions. In charge of implementation of this law, as the institutional support for an efficient functioning of that system, a new Ministry was founded for the Protection of Natural Resources and Environment. The Ministry within the framework of its activity covers management, sustainable utilization and protection of the natural resources and natural values, incorporating air, water, subterranean water, soil, forests, mineral raw materials, natural resources of energy, as well as space, geo-diversity, biodiversity, wildlife and habitats, aquatic values and landscapes.

Review of the results

The New Ministry for Protection of Natural Resources and Environment of the Republic of Serbia includes the Forestry Directorate. Within the latter, the duties are performed of the Unit for Management and Analytical Studies and the Unit for Monitoring and Supervision.

Management of forests is performed by the following institutions: Public Enterprise "Srbijasume"; Public Enterprise "Vojvodinasume"; Public Enterprises of National Parks: Kopaonik, Djerdap, Tara, Fruska Gora and Sar planina. The public enterprises "Srbijasume"

and "Vojvodinasume" are organised through 21 Forest Districts, and 67 Forest Management Units (Field Directorates), supervised by the corresponding Directorate of the Ministry. In the Exposé by H.E. Minister for protection of natural resources and environment of Serbia, dr Andjelka Mihajlov, on behalf of Serbia and Montenegro at the Fourth MCPFE, "Commitment of Serbia and Montenegro to reform with environmental, forests and other natural resources protection components" the following important statements have been made.

"The current process of political, social and economic changes in our country renders the possibility for the policies of forestry and environment protection to be arranged integrally and systematically. The advancement of legislation in forestry, the transformation of the system of managing forest resources, innovation of methodologies of research and planning, as well as ever more necessary carrying out education and training of new operatives in forestry education, science and industry, are but some of the priority tasks of the governments of the member republics (Serbia and Montenegro). The new recommendations for managing private forests also present a significant step in the development and planning of the forestry of Serbia and Montenegro on the basis of integral forest management principles."

"As a first step towards harmonization of the regulations in the area of protection of the natural resources and the environment, as well as the integration of the economic and environmental policies, a Law has been prepared on the system of environment protection, in agreement with the EU criteria. In the light of this, as well as the new data and recommendations of the professional and scientific public of Europe and the world, several important international projects are in progress in this field."

The degree of importance ascribed to the problems in forestry can best be seen through the issues addressed at the Vienna Living Forest Summit and its Declaration: "European Forests - Common Benefits, Shared Responsibilities". More specific issues were addressed by the resolutions:

No. 1: "Strengthen Synergies for Sustainable Forest Management in Europe through Cross-Sectoral Co-Operation and National Forest Programmes",

No. 2: "Enhancing Economic Viability of Sustainable Forest Management in Europe",

No. 3: "Preserving and Enhancing the Social and Cultural Dimensions of Sustainable Forest Management in Europe",

No. 4: "Conserving and Enhancing Forest Biological Diversity in Europe", and

No. 5: "Climate Change and Sustainable Forest Management in Europe".

All these documents were signed by the delegation of Serbia and Montenegro, and the corresponding obligations were accepted.

Priority projects now in progress are:

- Institutional Development and Capacity Building for the National Forest Programme, supported by FAO;
- Reorganization of Public Enterprises for Forest management, fully prepared;
- Harmonization with EU Legislative in the Fields of the Forestry. Reproductive Material, ongoing - supported by OSCE;
- Development of Forestry Education in Serbia, ongoing - Tempus Project.

Recommendations

In the area of environment protection:

- Creating the National Sustainable Development Strategy
- Creating the National Environment Protection Program
- Development of the institutional framework for environment protection– Founding of the Environment Protection Agency

In accordance with the former as a more general approach for development of the forestry sector based on sustainable development principles, and in particular for the policy and institutional framework:

- Institutional strengthening of the forestry sector
- Creating the National Programme for Forests

In analogy to the Principles of the National Programme for Forests in Europe, adjustments are needed in the following matters:

- Holistic and Inter-Sectoral Approach
- Iterative Process with Long-Term Commitment
- Capacity Building
- Consistency with National Legislation and Policies
- Integration with National Development Strategies
- Consistency with International Commitments recognizing synergies between International Forest Related Initiatives and Conventions
- Institutional and Policy Reform
- Ecosystem Approach
- Partnership for Implementation
- Raising Awareness in particular with regard to awareness as an integral part of SFM.

The aim is to develop new understanding and competencies, empower people and pave the way for individual and collective changes. In this context, raising awareness of forests and forestry represents an important tool to connect people, and to enhance society's support to sustainable forest management. The following is of paramount importance:

- Creating new legislation on forests in accordance with the EU criteria
- Application of GFIS and other information systems
- Development of the system of sustainable forest management.

Sustainable forest management should advance through implementation, application, and if necessary improvement of the criteria and indicators for monitoring, assessment and reporting on the state of forests. It will be appropriate to use the "Improved Pan-European Indicators of Sustainable Forest Management", adopted at the Fourth MCPFE. Also, the following important topics should be considered:

- Development and utilization of the new economic instruments for achieving the objectives of sustainable forest management;
- Strengthening of synergies and cooperative effect of policy directed to sustainable forest management and other relevant policies, programmes and strategies through an approach of integration and co-ordination;
- Implementation of the documents signed at the Fourth MCPFE;
- Following the IUCN directives on assessment of the protected and protective forests and other forest lands in Europe, included in the documents of the Fourth MCPFE;
- Advancement of the protection of nature and management of the protected areas, in co-operation with the forestry sector, according to the WWF recommendations.

WWF solutions in the area of forest protection mostly relate to the following topics:
RAPPAM: As an initial step for improving protected area management an assessment first needs to be made, based on the WCPA framework. WWF offers policy makers a Rapid Assessment and Prioritisation of Protected Area Management (RAPPAM) Methodology. This

is based on the WCPA Framework, and acts as a tool to improve the overall management effectiveness of protected areas within a particular country or region.

PAN PARKS: Combining sustainable tourism and nature conservation. WWF offers a reliable 'trademark' in the marketplace, which guarantees quality for tourism and nature.

HIGH CONSERVATION VALUE FORESTS: The concept of High Conservation Value Forests is increasingly of use in land use planning and as a key element for safeguards in commercial operations and financial investments involving forests. WWF provides guidelines and assistance in management strategies for these high conservation value forests.

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BALANCE BETWEEN FORESTRY AND NATURE CONSERVATION – REIMBURSEMENT OF FOREST OWNERS IN THE SLOVAK REPUBLIC

BY RASTISLAV ŠULEK, JAROSLAV ŠÁLKA

Abstract

At the present time, in Slovakia, there is a strong need for the implementation of legal provisions dealing with compensation of forest owners for restrictions imposed on the utilization of their forests in the interests of general public welfare, especially in the sphere of nature and landscape conservation. In 2002, the Slovak Republic adopted a new Nature and Landscape Conservation Act, according to which the forest owners must be indemnified for the detriment due to lower sales and yields resulting from restrictions on management or for increased costs of management in favor of the nature and landscape conservation. The paper deals with the legislative problems of indemnification of the forest owners due to restrictions on the forest assets management caused by nature and landscape protection. It describes the reimbursement of forest owners during 1994 – 2002 and analyses the present situation. Special attention is devoted to the problems of formulation and implementation of legal provisions dealing with the reimbursement of forest owners.

Key words: nature protection legislation, property rights, indemnification for forest property, forest owner compensation,

Introduction

According to the Constitution of the Slovak Republic, originating from 1992, the economy of the Slovak Republic (SR) shall be based on the principles of a socially and ecologically oriented market economy where everyone shall have the right to own property. Property rights of all owners shall be uniformly construed and equally protected by law. Expropriation or enforced restrictions of property rights may be imposed only to the necessary extent and in the public interest, based on the law and in return for adequate compensation. At the same time, the State shall care for an economic utilization of natural resources, for ecological balance and for effective environmental policy. Details on the rights and duties according to these provisions shall be laid down by a law.

Nature protection legislation

Such law in the field of nature and landscape preservation was laid down in 1994 when the National Council of the SR adopted the *Act 287/1994 Coll. on Nature and Landscape Conservation* that defined the competence of the state administration as well as the rights and duties of legal entities and natural persons on the preservation of nature and landscape. This Act respected the constitutional property rights as follows:

1. The landowner (administrator, tenant) is obliged to tolerate restrictions and other conditions of nature and landscape protection established by this Act;
2. If property detriment arises because of such restrictions on the land that is not owned by the state, the land owner shall have the right to indemnification;
3. Such indemnification shall be covered by the state;
4. Conditions and method of compensation for the property detriment as well as the method of its calculation shall be laid down by governmental regulation.

The Nature and Landscape Conservation Act in 1994 designed a system of complex nature and landscape preservation based on five levels of protection with different categories of protected areas (*Table 1*):

- I. Level: The territory of the SR not included in any of the higher levels of protection,

- II. Level: Protected landscape areas (PLA),
- III. Level: National parks (NP),
- IV. Level: Protected sites (PS),
- V. level: Nature reserves (NR), national nature reserves (NNR), nature monuments (NM), and national nature monuments (NNM).

Table 1 - Protected areas in the Slovak Republic (2002)

Level of protection	Category of protected area	Area (ha)		Percentage of the SR territory
I.	Unprotected land	3 758 593		76,7
II.	PLA	510 214	783 855	16,0
	protected range of NP	273 641		
III.	NP	248 163	250 426	5,1
	protected range of PS	2 263		
IV.	PS	7 057	10 932	0,2
	protected range of NR, NNR, NM, NNM	3 875		
V.	NR, NNR, NM, NNM	99 594		2,0
II. – V.	Together	1 144 807		23,3
	Total	4 903 400		100,0

Source: www.soprsr.sk

Protected areas cover more than 23% of the SR territory. It means that almost one quarter of the Slovak territory falls within an area with some kind of nature and landscape protection. Areas of nature and landscape protection in other European countries are much smaller (e.g. the share of protected areas in Finland is 8 %, in Sweden 7 %, in France 9 %, in Germany 16 %). In connection with forestry, it is interesting to find out what share of forest land is located on protected areas (*Table 2 and 3*).

Table 2 - Area of forest land in protected landscape areas and national parks (2000)

Category of protected area	Total area (hectares)	Forest land	
		ha	%
Protected landscape areas	623 971	443 019	71
National parks	481 343	321 240	67
Total	1 105 314	764 259	69

Source: *Report on Forestry in the Slovak Republic 2002*

Table 3 - Area of forest land in protected sites, nature reserves and monuments (1999)

Category of protected area	Total area (hectares)	Forest land	
		ha	%
Protected sites	7 514	5 882	78
Nature reserves	11 536	9 903	86
National nature reserves	88 918	81 006	91
Nature monuments	1 718	1 101	64
National nature monuments	79	43	54
Total	109 765	97 935	89

Source: *Report on Forestry in the Slovak Republic 2002*

It is obvious that forest land is the most important land use category in all levels of protected areas. Out of 2 millions hectares of forest land, more than 43 % fall within one of four higher levels of protection. In the near future, the area of some categories of protected areas is expected to increase or, in some cases, the level of protection of existing protected areas is expected to become higher. It means, that the owners of almost half of forest land might have the right to ask for indemnification for property detriment due to restriction on the management of forests in favor of nature and landscape protection.

Reimbursement of forest owners during 1994 – 2002

The Nature and Landscape Conservation Act (1994) established the provision that conditions and method of compensation for property detriment as well as the method of its calculation should be laid down by a governmental regulation according to which the forest owners could ask for indemnification for detriment due to restriction of property rights in favor of nature and landscape protection. However, since 1994, the Ministry of Environment has not elaborated the proposal for such a regulation. Resulting from this, the Slovak Government has not approved any regulation dealing with the issue. During the period 1994 – 2002 such situation originated most probably from the following problems.

1. There was an evident competence conflict between the Ministry of Agriculture and Ministry of Environment in the field of the state forestry administration and the state administration of nature protection on protected areas. In the field of forestry, the problem of the Tatra National Park is an example of such conflict. On the area of this national park, there are two parallel organizations. One of them, established by the Ministry of Agriculture, manages the forest resources, the other one, established by the Ministry of Environment, takes care of nature protection. Similar competence conflicts between the state administration bodies of both Ministries could be found in the field of agriculture as well as in water management.
2. The process of elaboration and approval of forest management plans, based on provisions of forest legislation, respects the requirements of nature protection, though without reimbursement to forest owners. As a result, the environment state administration has not been willing to implement any regulations dealing with reimbursement of landowners.
3. Finally, the lack of financial means in the Slovak state budget has been an important factor preventing the Slovak Government from approving the regulation on indemnification of landowners.

This problematic situation was slightly changed in 2001, when the proposal of the new Forest Act was elaborated (*Šulek, 2002*). The proposal embodied the provision saying that each forest owner is entitled to ask for indemnification for detriment, namely reduction of sales and yields due to restriction on forest management or increased costs of management in favor of other forest functions in favor of public interests. Detriment due to ensuring public-beneficial forest functions is covered by the state or the subject in favor of which the functions are ensured. Such indemnification is reviewed by the organs of state administration of forestry.

Although the proposal of the new Forest Act has not been approved by the Slovak Parliament, it has most probably started the process of implementation of the legal provisions dealing with the indemnification for property detriment due to restrictions established by the Nature and Landscape Conservation Act.

Finally, at the end of 2001, the Slovak Government approved the *Regulation 24/2002 Coll. on the method of calculation and payment of property damage incurred by restricting the ordinary use of land in other than state ownership*. The regulation defines the term

“ordinary use of forest land” as the use which is in accordance with the management measures that have been proposed before restrictions established by the nature protection bodies came into force and which secure sustainable management without deterioration of environment. In this regulation, the property detriment incurred by restricting the ordinary use of forest land is expressed as the financial loss originating from one of the following cases:

1. loss or reduction of yields and sales of timber at any age of forest stands,
2. increased costs of the management of forest stands,
3. restriction of timber processing resulting from extraordinary circumstances and unpredictable damages in those forest stands that are part of protected areas.

The governmental regulation describes the practical methods of calculation of property detriment in all of these cases. It was the first piece of legislation that laid down practical provisions eliminating the conflict between landowners and nature protection. However, the problems of implementation of this regulation have appeared due to rather vague and unclear procedure of calculation and reimbursement of the forestry property detriment.

At the beginning of 2002, the issues of compensation of landowners for restrictions imposed on the use of their properties in favor of nature protection were integrated into the *Act 261/2002 Coll. on the Prevention of Major Industrial Accidents*. This Act changed the *Act 287/1994 Coll. on Nature and Landscape Conservation* and the new legal provisions in the area of indemnification for forestry property detriment were the following:

- If the restrictions of property rights occur during the validity of the forest management plan, the forest owner shall apply for a change in the forest management plan expressing the restriction of ordinary use.
- Only upon approval of the change of the forest management plan, the owner shall be entitled to indemnification for forestry property detriment.
- Only the owner of forestry property is deemed to be the person authorized to claim indemnification for the detriment (so-called authorized claimant).
- The indemnification for forestry property detriment may be claimed from the authority responsible for protection of nature or from the county council (so-called obliged authority).
- The indemnification for the forestry property detriment shall be claimed by written application, showing given data and documents, and shall be submitted within a given period.
- Claims of indemnification for forestry property detriment shall be decided by the obliged authority and participants in the proceedings may file for reviewing in court.
- The amount of reimbursement shall be reduced by the value of subsidies and contributions granted from the state budget, the value of the real estate tax relief in the relevant period, the costs compulsorily spent by the authorized claimant for management of the property as well as by the costs that would be spent by the authorized claimant to acquire yield from the forestry property.
- Details of the conditions and methods of determination and calculation of the indemnification for the property detriment shall be laid down by governmental regulation.

Present situation of reimbursement of forest owners

In June 2002, the Slovak Parliament adopted the new *Act 543/2002 Coll. on Nature and Landscape Conservation* that came into force at the beginning of 2003. This Act cancelled the provisions of the Prevention of Major Industrial Accidents Act dealing with issues of indemnification for property detriment due to restriction on the land use in favor of nature and landscape protection. These provisions are now embodied in the new Nature and Landscape Conservation Act with the following changes and amendments:

- The term “restriction of property rights” is replaced by the term “restriction of ordinary use of land”. The term “ordinary use of forest land” is defined according to Regulation 24/2002.
- Indemnification due to restriction of ordinary use of land is applied in all categories of ownership, including state ownership.
- The authorized claimant is the owner of property or the administrator of property in the case of state ownership.
- The provisions on the reduction of the amount of reimbursement are cancelled.
- The period of submission of the written application for indemnification for forestry property detriment is lengthened.
- Special cases in which the claim for the indemnification shall terminate are specified and new cases are introduced.
- Details on the application for reimbursement of indemnification due to restriction of ordinary use of land as well as the method of calculation of the indemnification shall be laid down by governmental regulation.

At the end of 2002, the Ministry of Environment elaborated the proposal of such a regulation (*Moravčík et al., 2002*). The proposal embodies three main provisions:

1. An exact list of appurtenances of the application including the expert's testimony on the calculation of indemnification together with all relevant documents according to which the expert's testimony is elaborated and the testimonial on the costs of the expert's testimony elaboration;
2. Calculations of indemnification for the forestry property detriment in three cases mentioned by the Regulation 24/2002;
3. Practical methods of such calculation mentioned by the Regulation 24/2002 (formulas for calculation are unified and simplified in this new proposal).

Up to now (May 2003), this proposal was not added to the official agenda of the Slovak Government for approval. It means that the vague and unclear Regulation 24/2002 is still valid in the field of reimbursement of the forestry property detriment.

Conclusion

Since 1994 politicians, scientists as well as practitioners have been trying to solve the contradiction between legitimate rights of landowners which originate from the general constitutional rights and principles of nature protection established by the Nature and Landscape Conservation Act. The majority of these conflicts is related to forest owners due to the fact that more than 70 % of the territory of protected areas is covered by forests or, in other words, more than 40 % of forest land is located in protected areas. During the years 1994 – 2002, the contradiction led the formulation of legal provisions that should eliminate this discrepancy.

In 2002, detailed legal provisions dealing with the indemnification of landowners due to restrictions of ordinary land use in favor of nature protection were formulated and adopted. However, the process of implementation of these legal provisions was and still is really problematic. In practice, up to now there is not one single case of a forest owner indemnification solved and realized, though the nature protection requirements in protected areas restrict or directly ban the proper economic use of forest land.

The two main reasons are lack of financial means needed for reimbursement and as already mentioned unclear procedures of calculation and reimbursement of the forestry property detriment. This blurred procedure is a result of the rather unclear legislative process during the years 1994 – 2002. Moreover, to improve the implementation process, it is

necessary to introduce accompanying information tools, as the calculation of indemnification is too complicated. Also, the implementation process in the case of forest land could be seriously affected by issues of forest certification (*Paluš, 2000*) that seem to be another source of contradiction between nature protection and forestry.

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MEASURES OF THE STATE IN FORESTRY SUPPORTIVE POLICY IN THE SLOVAK REPUBLIC DURING THE TRANSFORMATION PERIOD 1990-2003

BY VIERA PETRASOVA

Since 1990 changes have been going on in the forestry of the Slovak Republic as a result of re-privatization and restitution of forestland and transformation of economic and management system of the state. These changes resulted mainly in following:

- Restructuring the organization structure of forest enterprises,
- Liberalization of the prices of raw timber and other forest products,
- Transformation of the management and economic system of forest enterprises.

Policy of resources

After 1991 state forest enterprises were established in the forest sector of the Slovak Republic. They started their work without state support. Management of own lands and initial costs were covered by financial means obtained from timber logging and state subsidies. Only after 1995 the state, the Ministry of Agriculture, started to support civil associations of forestland owners and employees of non-state forest enterprises.

Since the adoption of the law on land which was at the beginning of restitution and re-privatization, state forest enterprises have been covering administrative costs connected with renewal of ownership's rights and labor costs related with the reduction of staff due to reducing the area of forestlands.

The policy of state support to forestry during the period 1990 – 2001 respected the increased costs of forest enterprises connected with the mentioned processes. In 1991 there was established a special State Fund for Forest Improvement through which special development programmes were supported. The fund was subsidized from means of the state budget and had its own receipts from levies for exemption (exclusion) of land from forestland resources, and from fines for forest law violation. Similarly for ecological programmes on forestland another State Fund for Environment could provide finances for projects. In 2002 these funds were abolished. The allocation of financial means for development programmes of forestry is now only possible through the state budget and the respective chapter of the Ministry of Agriculture.

This is an example of negative interference of the state with regard of support for the following programmes:

- Regeneration, protection and tending of forest stands,
- Long-term development of forest resources,
- Works of national importance,
- Professional management of forests.

During the years 1990-2002 direct support to forestry through subsidies for the mentioned programmes was dropping. Fig. 1 illustrates the absolute and relative subsidies. Assessment of relative subsidies is important as they reflect the decrease of subsidies. At present subsidies do not cover even losses in management on non-restituted forestlands. These lands are still in the use of state forest enterprises.

The development of the allocation of resources of the state forestry support policy is elaborated in schemes. It follows from the comparison of state resources for development programmes of forestry that the greatest changes occurred in the years 1991-1995. In this period there was set a basis for macroeconomic tools adopted in state legislation. The years 1996-2002 are characteristic for the adoption of laws and amendments, which specify in detail the adopted principles of macroeconomic policy.

Policy of payments

After the year 1990 the allocation of payments for forest enterprises has changed. It had an important influence on the management of forest enterprises. This period was characteristic for a decline of forestry policy and development programmes adopted in forest organizations. Since 2002 it is not possible to obtain financial means in forestry, which represent income only for forestry projects.

A positive example of the support for entrepreneurial activities of forest enterprises is the pre-accession assistance of the EU through the SAPARD programme. Since 2002 entrepreneurs in forestry can apply for support in the following fields:

- Investment for new machines and equipment,
- Investment for information systems and computers,
- Diversification of tourism activities (building and machinery investments).

The effect of integration into EU

The elaboration of programme documents for forestry projects supported from structural funds will be finished soon. In the framework of the operation plan for the sector the following supported activities were adopted:

- Investments for support of production and processing of raw wood and sale of forest production,
- Sustainable management of forests and their long-term development,
- Restoration of the forest potential damaged by natural disasters and forest fires and protective preventive measures,
- Associating of small forest owners and founding associations as legal entities.

Forest enterprises can with this operation plan use financial means for diversification activities in rural areas (agrotourism, crafts, services for agrotourism...), training and extension. Moreover forest enterprises, associations and other forest organizations will have a possibility to use finances from other structural funds as well as community programmes.

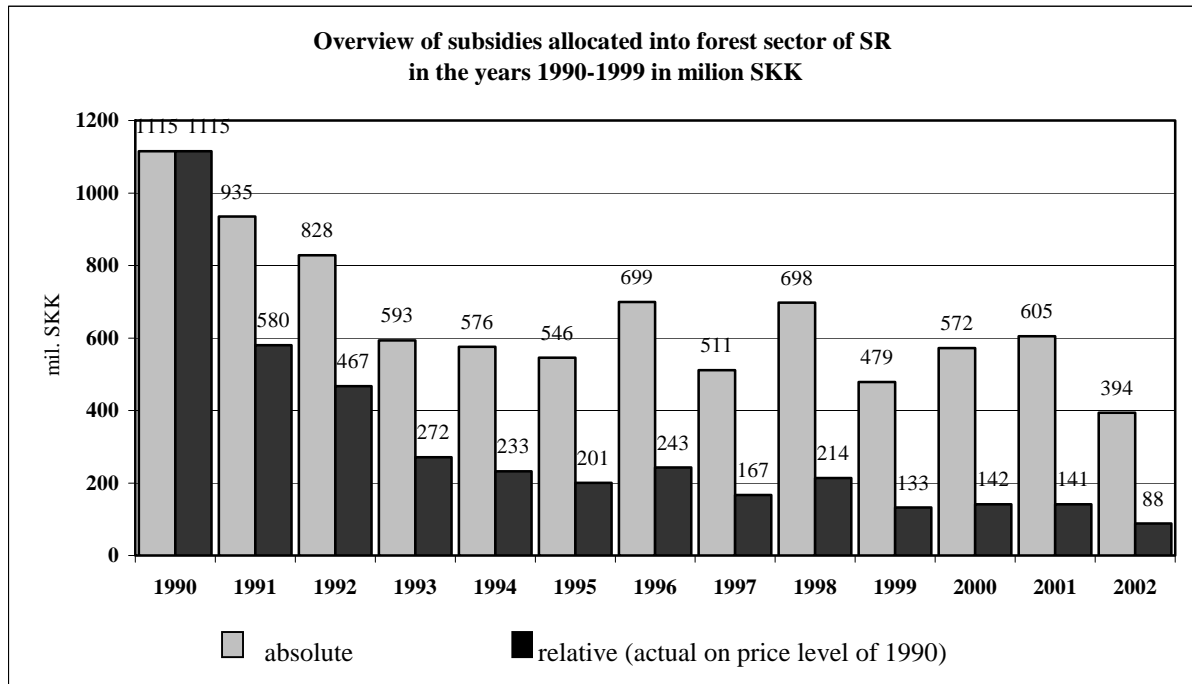
Conclusion

Declining state support to forestry brings about a necessity of forest enterprises to obtain advantageous resources for own activities from several related sectors. This system of support has not been applied in the Slovak Republic yet. Coordination of state support of related sectors does not exist.

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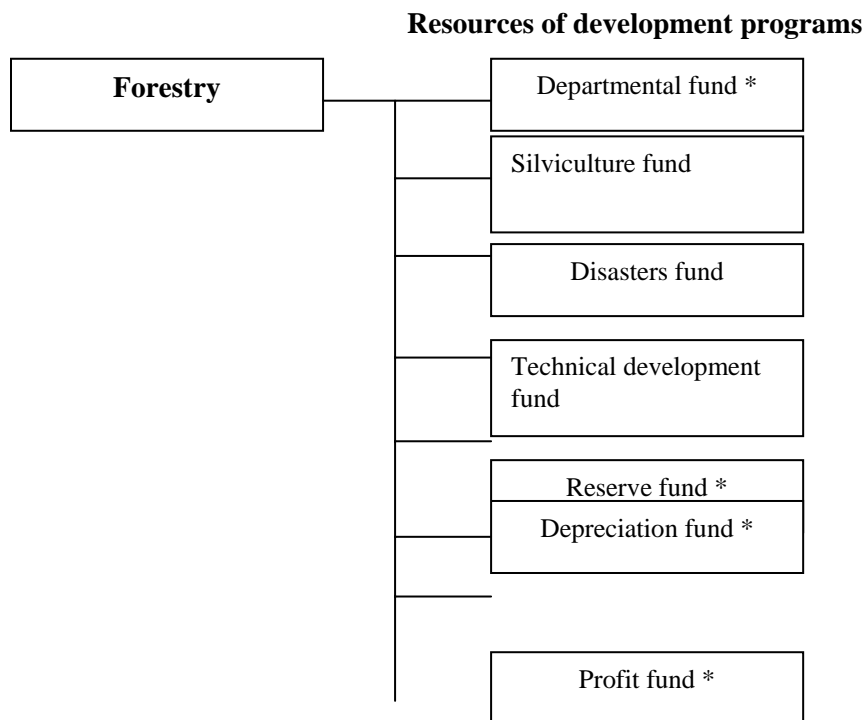
Table 1.



Source: Report on Forestry SR in 2003

Figure 1: Development of the allocation of resources of state forestry supportive policy;

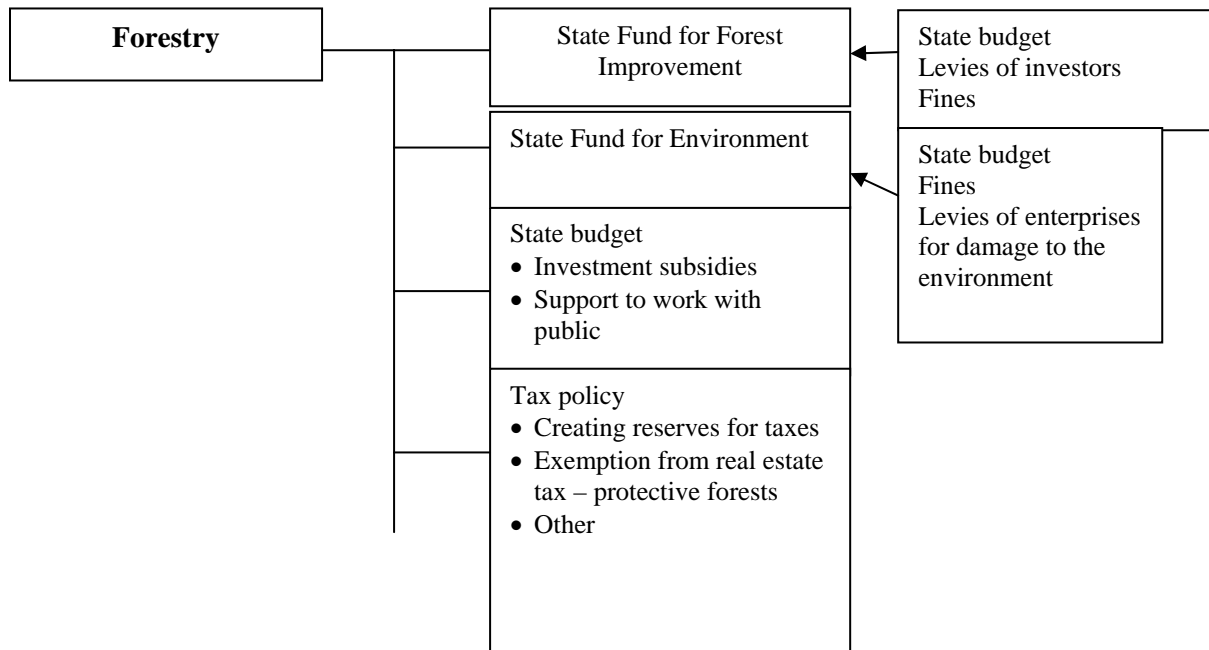
Year 1990



Note: * Given funds were used for the development of forestry programmes according to priorities adopted by the government

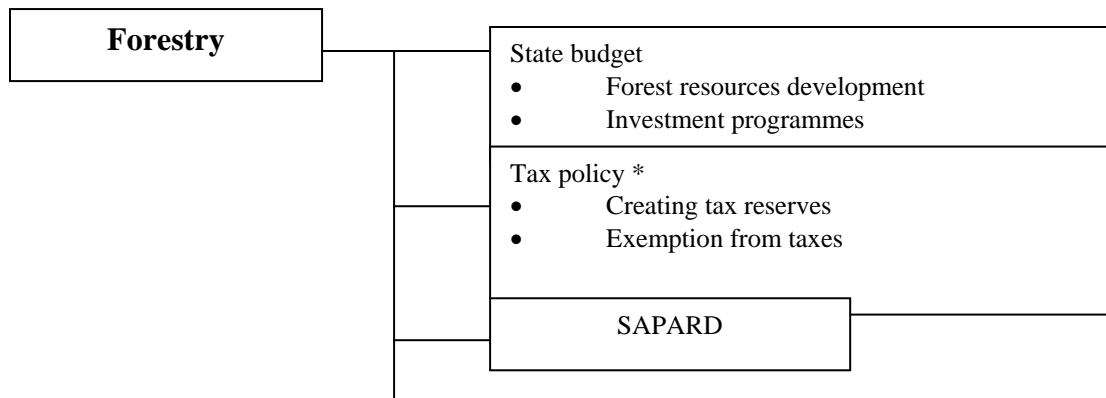
Year 1995

Development programs resources Funds receipts



Year 2002

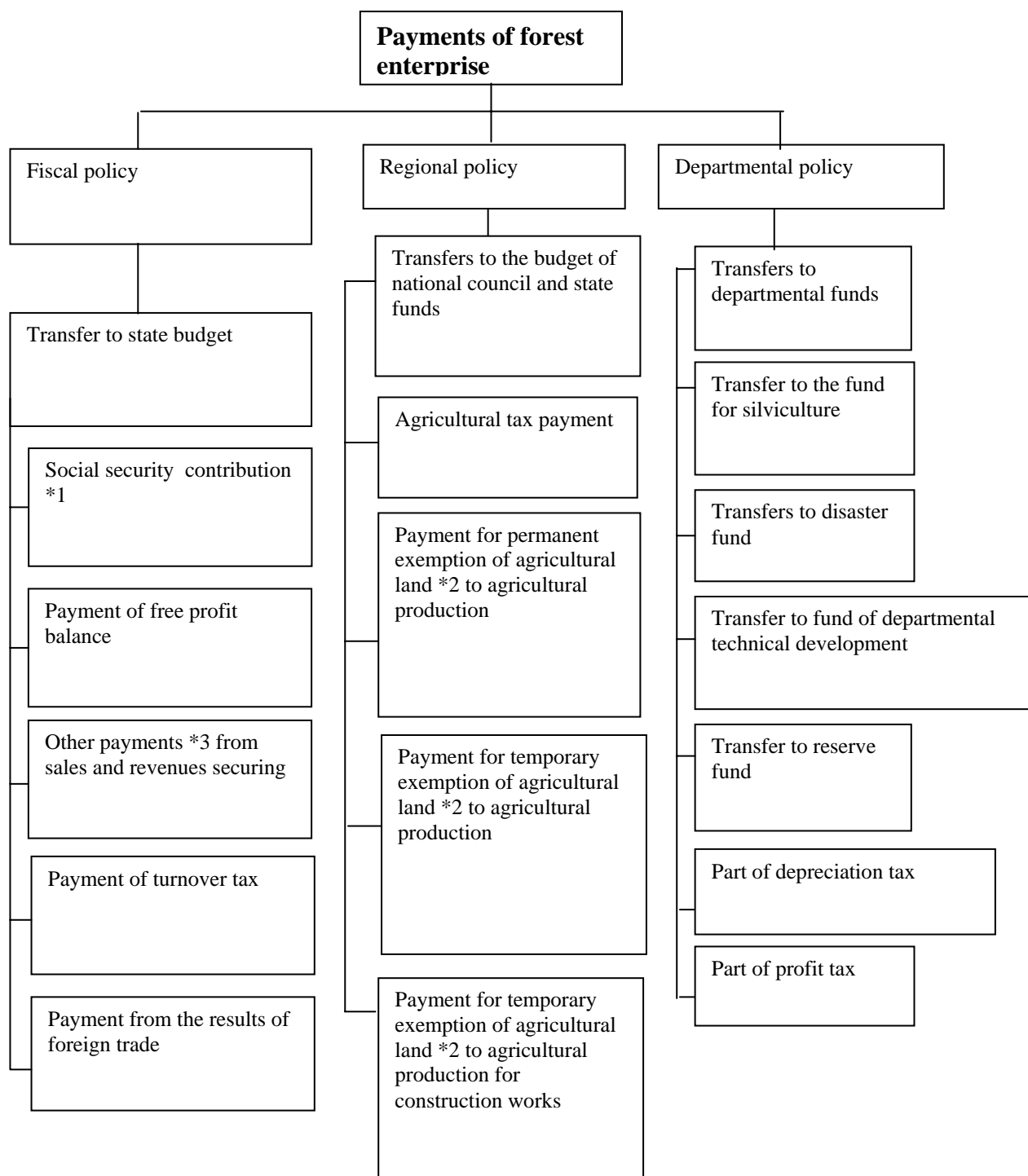
Development programmes resources



Note: * In 2003 tax reform being under preparation can invalidate these tools of support for forestry.

Figure 2: Allocation of forest enterprises payments

Year 1990



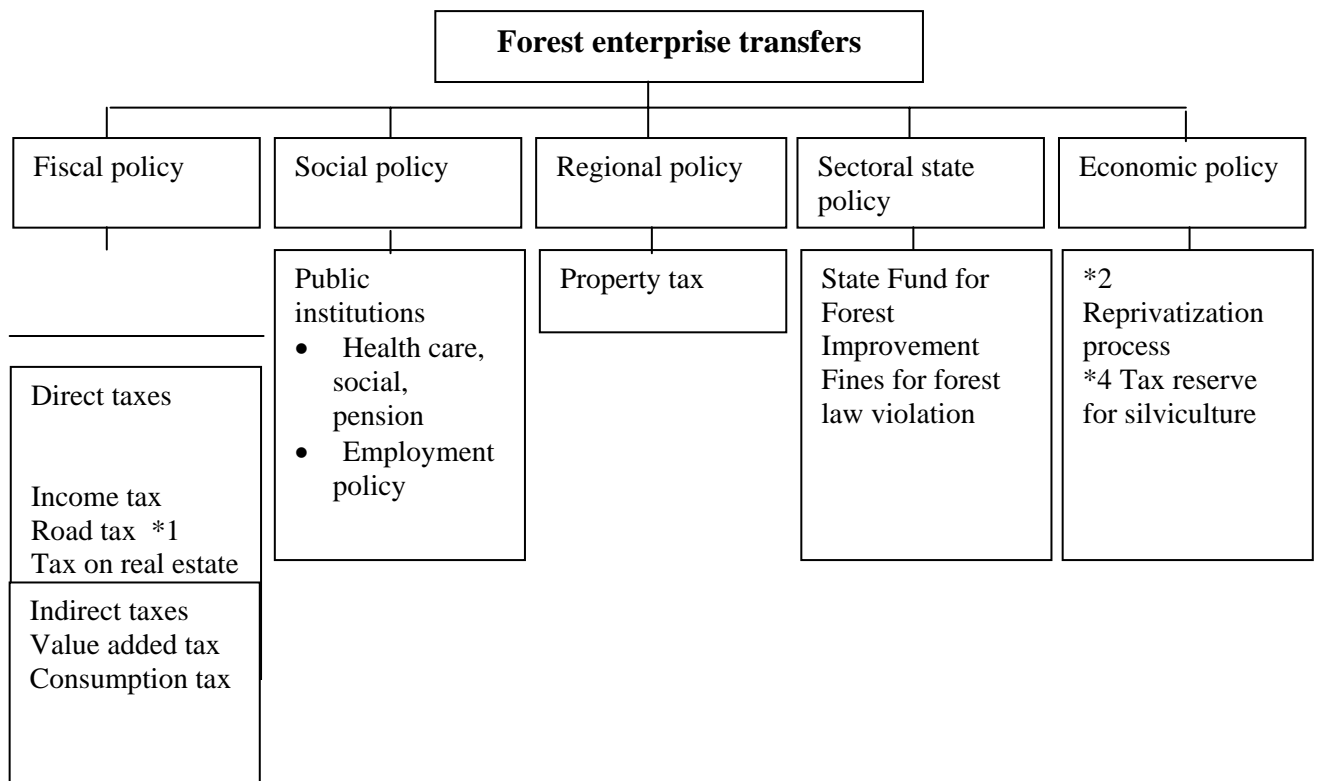
*1 Amount of transfer to social security system was 20 % of the volume of paid wages

*2 Transfers for exemption from forest land resources have been in effect from 1.1.1994

*3 Transfer from sales gained by works of national importance as for example taking of surface water from torrents managed by building forest-reclamation enterprises, sale of plants and wood from tending in the stands established on non-forest land ...

Source: Blud'ovský et al. (1988)

Year 1995



*1 Vehicles of forest enterprises moving on managed forest land are exempted from road tax

*2 Reprivatization process

Non-state forest enterprises

- Institutional costs
- Establishment of new enterprises
- Administrative costs

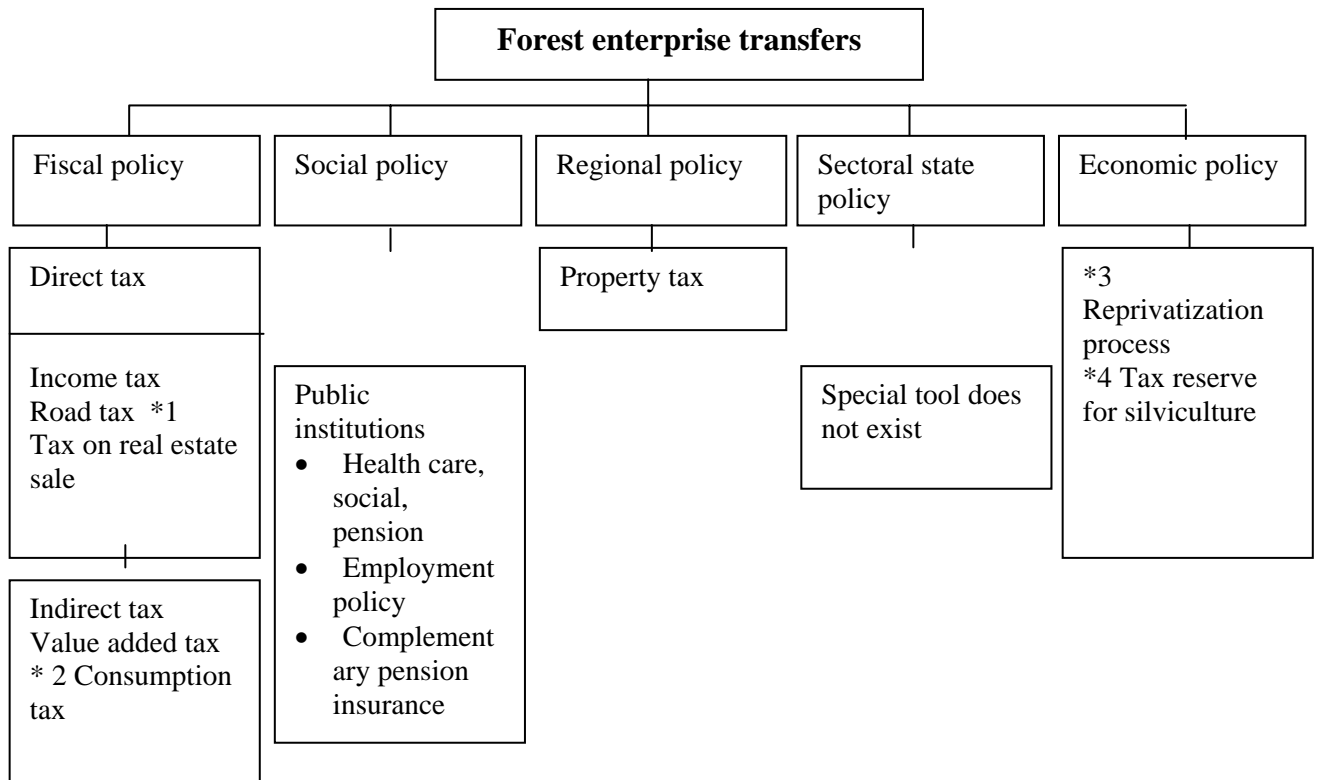
state forest enterprises

costs related to

- reduction of staff
- administrative costs

*3 Special tool of tax policy

Year 2002



*2 Tax rate for work in forest production within entrepreneurial activity is reduced

CONSIDERATIONS ON THE STRUCTURE AND CONTENT OF THE UKRAINIAN FOREST CODE

BY LYUBOV POLYAKOVA

Abstract

Forestry in Ukraine is now on the eve of a new round of legislative reform. The Forest Code is expected to recognize positive structural changes in the forest sector, to evaluate prospects for different forms of forest ownership, to outline competencies of the state bodies, and to define rights and obligations of forest owners and users. Open discussions of forestry problems and efforts to consider the interests of all forest stakeholders have become a typical feature in repeated reviews of forest legislation in transition countries. This feature is reflected in the fact that several draft Forest Codes have been prepared and submitted for consideration. In view of further integration of Ukraine into the European structures and harmonization of legislation it is important to have an independent evaluation of the conceptual fundamentals, structures and content of an effective Forest Code.

It is noteworthy that until present there is no common approach to the formation of a Forest Code and its targets. Its content, structure and scope are determined by the traditions of lawmaking in different countries. In this paper a system approach to forest legislation analysis is proposed. The content of forest laws in some European countries (Czech Republic, Slovakia, Hungary, Lithuania, Poland, Latvia, Estonia, Sweden) is considered with a view to identify substantiated provisions that are relevant for the development of the new Ukrainian forest law.

Introduction

The recent repeated revisions of forest legislation in countries in transition to market economies were characterized by a wide discussion of forest problems with all stakeholders and the general public. This process resulted in the submission of a number of draft laws to the parliaments of many countries. The work on these draft laws led to the development of new forest legislation drastically different from the preceded acts adopted in the first years of independence. The study of experience of international law-making processes and of the forest legislation of states that recently were in the conditions similar to the Ukrainian situation and resolved or are resolving similar problems is an important part of the legislative work.

Forest legislation of European countries is usually based on a general forest law (code or act) regulating forest relations at the national level. Historical developments and traditions of law making in every particular country determine its content, structure and scope. First, I would like to make a brief comparative analysis of the forest codes of 8 countries: Czech Republic, Hungary, Slovak Republic, Latvia, Lithuania, Estonia, Poland, and Sweden. Despite of many differences there are four elementary aspects in every law. They may be resumed as declarative, regulatory, normative and procedural aspects. This division allows a systematization of specific legal provisions.

Declarative Aspects

This part specifies basic notions, objects and subjects of forest relations, principles and objectives of forest management. A combination and content of the declarations are different in the various codes. They are often presented as a glossary of basic terms in the introductory part of the law. Interpretation of the notion “forest” and “forest land” in the laws is of special interest. The forest law may give either both notions (Hungary, Czech Republic, Latvia, Lithuania) or only one (the Estonian forest code gives a definition of “forest”, the Slovak and

Swedish forest codes define “forest lands” and the Polish forest code combines the two notions into one). Common for the laws is a declaration that forest lands cover not only lands occupied with forest but also land inseparably connected with forests and intended for forest management. Specific requirements on the definition of “forest”/“forest lands” are, for instance, area, height, density and productivity of forest stands. Additional requirements may be determined either in the text of the law (Latvia, Hungary) or delegated to the state forest authorities for regulation (Slovak Republic, Estonia). The Estonian, Lithuanian and Hungarian forest laws list categories of stands, which are either regulated or not regulated by the forest law even though these lands *a priori* may fall under the definition of “forest” or “forest land”.

Reviewing different forest laws is important in order to understand that one and the same notion may be differently interpreted in the laws of different countries. For example, Hungarian law makers define forest manager as the owner or the forest user authorised by the state and use this notion throughout the text of the law. In the forest law of Lithuania forest managers are the state forest enterprises and municipalities. In the Czech forest law there is no notion of a “forest manager” in the list of definitions and the law addresses in most cases the forest owner. But the presence of a forest manager who may be the forest owner himself or represent a legal or physical person with a special license is an obligatory condition for forest management.

Regulatory Aspects:

This part defines competences and regulates authorities of different branches of power and state bodies in the sphere of forest management as well as rights and obligations of the forest owners, holders and users. It describes the principles of economical regulation of forest relations by the state and determines an order of access to forest.

Practically in all laws the authorities of different state bodies in the sphere of forest management are presented in the articles concerning regulation of particular legal issues (this especially concerns authorities of government or parliament). It is relevant for Swedish and Polish forest codes while the Forest Code of Lithuania goes further determining the role of the state as well as rights and obligations of the state officials in the sphere of forestry. In the Latvian Forest Code apart from references in specific articles the general functions of forest management are determined in the closing part of the act. The Slovak Forest Code gives a detailed description of the authorities of the Ministry, the Estonian Forest Code gives general description of the authorities of the state specifying the functions of the Forestry Board, Environmental Supervision Agencies and of county forest councils. The Czech and Hungarian Forest Codes devote several articles to a description of the authorities of the state power bodies. The Polish and Estonian Forest Codes describe in detail the functions, authorities, operational methods and financial scheme of state forest companies.

Forest property rights

A separate article *on forest property rights* is included in the Lithuanian Code. In other laws we find only references concerning state forest ownership. State forest is regulated in Estonian forest law (at least 20% of the country). The Lithuanian forest legislation specifies the forest placed under the various categories of state authority. It indicates that ownership rights and obligations are delegated on behalf of the state to the government or the line ministry authorized by the government. In Poland the State Treasury as a founder of the State Forest Company acts as the owner of the state forests. Issues related to state ownership for forests are in a detail considered in the Lithuanian law. The Forest Code indicates that the Forest Department of the Ministry of Agriculture is considered as the owner of state forests while the State Joint Stock Company manages state forests. In Slovakia the state-owned forest resources and the facilities used for their management are under the responsibility of the

organization founded by the central body of the state forest administration. In the Czech Republic the lease and sublease of state forests are forbidden, the sublease is allowed only if it is effected through a lease contract for forest stands. In Poland lease and sale of state and other immovable property of the State Treasury managed by the state forest enterprise requires permission from the line ministry. In Lithuania the state forests may be leased only for recreation, hunting and other non-for-profit activities specified by the act. In Latvia the forest law specifies all the cases when the sale or alienation of state forest is possible.

The *rights and obligation* of the subjects of forest relations are predominantly specified in corresponding articles. For example, the Forest Code of Lithuania combines basic rights and obligations of all subjects of forest relations in two articles. The Hungarian Forest Code presents obligations of the forest manager separately, the Estonian Forest Code gives obligations of forest owners and manager of the state forests. The Forest Law of Poland mentions obligations nominally. The State Forest Company and the forest owners are obliged to preserve forest and to provide sustainability of its use. Choice of the subject obliged to follow different procedures is also interesting. In Lithuania this may be forest owners, forest managers and forest users, in Slovakia forest users, in Hungary forest managers, in Estonia, Czech Republic and Sweden mainly forest owners. The Forest Code of Poland addresses the State Forests and forest owners.

Access to the forest is free in all countries. In Swedish and Slovak Forest Codes this issue is not considered. The Czech and Polish Forest Codes set detailed rules that should be followed by persons staying in the forest and collecting mushrooms berries and other non-wood resources. Some restrictions of free access to forest imposed by forest owners and forest state administrations are provided for. Hungarian, Lithuanian and Polish forest laws determine sites where free access is forbidden in any case. Lithuanian, Latvian and Polish Forest Codes provide for the necessity to place warning signs in case of restriction of free access. The Hungarian forest law requires to warn/notify the party the access of which is restricted.

The issuance of *forest use licenses* is regulated in Estonian, Latvian and Swedish Forest Codes. Certain forest operations are allowed only within two weeks after notification of the Forestry Board (Estonia), after receiving confirmation from the State Forest Service (Latvia) or after notification and in some cases receiving the permission (Sweden). This issue is not regulated in the forest laws of other countries. However, the Czech Forest Code specifies an order and conditions for issuance and annulment of licenses.

Transfer of land into other categories of use is regulated, as a rule, by decisions of the State forest administration. The transfer may be either temporary (in Hungary it is for 5 years, in Slovakia for up to 12 years) or permanent. In Lithuania the government determines a procedure for transfer of land to another category of use for the benefit of the state, forest owners and society. Besides, actions that should not be interpreted as transfer of the land to other categories of use are determined. The Forest Code of Sweden does not impede the change of forest land use. The issue is not regulated by the Forest Code of Estonia. Particular articles of the Hungarian Forest Code regulate the division of forest lands and their misuse. A provision on restrictions to split forest stands (at least 5 ha) is found in the Lithuanian Forest Code.

Economic regulation of forest relations by the state: Financial support of the forest sector may be offered either directly from state budgets through the line ministry or through the special funds. Mixed financing is possible. Directions of financing, taxes and other payments of the subjects of forest relations are indicated. Special mechanisms for state financial support of private forest owners are provided for, for instance, in Lithuania, the Czech Republic and in Estonia.

Normative regulations

Normative sections regulate forest operations. They establish requirements on forest regeneration, felling, quality and origin of reproductive material, and protection of forests against pests and diseases. Norms may be given in considerable detail or in a general manner. In some cases all key aspects of forest management are determined (Hungary, Czech Republic, Lithuania, Estonia, Latvia) or only some features are presented (Poland, Sweden). The normative section in the Slovak Code is given in fragments and there are no references to it in the document.

Determination of functions and methods of forest inventory and planning opens the normative section in the several forest laws (Lithuania, Czech Republic, Hungary, Estonia). This is understandable since it is in the context of forest management planning that norms and rules are determined and since forest management planning is a condition for forest operations (Czech Republic, Hungary, Poland, Lithuania) and for receiving public financial contributions (Latvia). It is noteworthy that in the laws which have been examined except in the Swedish law this issue is paid much attention to.

Regulation of *fellings* varies from detailed instructions (Estonia and to a lesser degree in Latvia) up to references to special guidelines (Lithuania). The laws in the Czech Republic and in Hungary contain brief description of felling types and specific restrictions of forest use (felling age, size of cutting areas under clear cut etc). Provisions on felling in the Forest Code of Sweden are rather of regulatory nature while in the Polish Forest Code they are rather fragmentary and mentioned in the section on obligations of state forest enterprises and forest owners. Mechanisms for the prohibition of fellings by the State forest administration are provided for in Latvia, Lithuania and Hungary if the terms of forest regeneration are not met.

Under the consideration of *forest regeneration* forest laws indicate, as a rule, methods, terms and specific requirement (Estonia, Hungary, Lithuania). The period for regeneration in the Czech Republic and in Poland is 2 years after felling, in Latvia, Lithuania and Estonia 3 years. In Sweden the law requires immediate regeneration and the by-laws specify the term of 3 years. Usually there prolongation of this term is possible by permission of the forest administration. The forest law in Estonia gives the required number of seedlings per 1 ha and other technological peculiarities. The Hungarian forest law indicates requirements on the plan and on the quality of plantations. The forest law in Lithuania indicates the cases when artificially regeneration should be used.

Requirements on *forest reproduction materials* are given in all laws except the ones from Poland and Lithuania. As a rule the issue is decided at the central level. The basic provision is that the seeds and seedling should be certified.

Safeguard and protection of forests is considered in all laws. Practically all laws make reference to relevant instructions and by-laws in the sphere of forest safeguard and protection, requirements to notify the forest administration on the propagation of pests and diseases and the necessity to take preventive measures.

Apart from these provisions of the normative section there is a number of other issues related to national specificity and emphasis put by the law-makers of different countries. Let us analyse some of them. Targets and direction of forest use are determined and parameters for evaluation of forest management are given in the Estonian forest law. Peculiarities of forest management of different targeted uses are determined in the forest laws of Estonia, Czech Republic, Latvia and Lithuania. In Sweden the issues of use and regeneration of broad-leaved valuable species are addressed specifically. Much attention is paid to nature conservation and preservation of forest biodiversity. The forest laws of Estonia and Latvia list key biotopes and specially protected areas.

In many countries principles for organization of the forest guard service are legally determined (Czech Republic, Poland, Hungary) as well as responsibilities of local

administrations for the protection of forests against fire (Czech Republic, Poland). Requirements on professionalism of forest workers and on certification of forest products are found in the forest law of Hungary. Conditions for using forest transport are considered in the forest laws of Czech Republic and Hungary. The Czech forest law pays specific attention to hydrological measures, the forest laws of the Czech Republic, Latvia and the Slovak Republic to reporting, the forest laws of Estonia and Hungary to forest data collection, and the forest law of Sweden to preservation of cultural heritage and reindeer.

The procedural section is present in the closing part of forest laws and determines an procedures of resolving disputable issues as well as the responsibilities of the subjects of forest relations for violation of the law.

The forest law of Ukraine

Let us now consider the structure and content of the forest law of Ukraine (1994) which develops provisions of the first basic laws of the national legislation such as the Land Code (1991), the Law on Environmental Protection (1991), and the Law on Local Governments. Its content and structure have been largely inherited from the forest legislation of the former Soviet Union. The described four parts of the law are easily identifiable in the code. This scheme allows an analysis of a set of problems related to every group of forest relations.

Declarations: Since there is no forest policy document in Ukraine the preamble of the Code should contain a brief description of basic provisions (directions) of forest policy, clearly indicating the basic state and public priorities. The national forest policy may be interpreted, first of all, as implementation of sustainable forest management. Therefore, the declarative part should contain, among other things, a definition of the principle of sustainable forest management localized to the conditions of Ukraine and/or to the European definition formulated at the Helsinki Ministerial Conference (1993). Further in developing or analyzing specific paragraphs of the law it is always important to reason to what extent various legal provisions facilitate sustainable forest management.

The new Land Code (2001) expressly indicates what lands belong to the forest fund and what lands do not belong to it. Possible forms of ownership are recognized. It is not in the legal tradition in many countries to repeat one and the same legal provisions in different laws. However, in view of a variety of the forest property forms emerging in Ukraine after a long suspension and the necessity of specification their interpretation by the Land Code, it is appropriate to evocate in the Forest Code the state strategy and an order for transfer of the forests for communal and private property.

Regulations. Analysis of the authorities of bodies responsible for state management and control in the sphere of protection, use and regeneration of forests testifies to the fact that a system of state function distribution as to regulation of forest relations has inner discrepancies. Jurisdiction and responsibility of different power levels in the modern Forest Code are not transparent and in some cases overlapping in virtue of the general nature of some provisions on management and control. It is necessary to reduce the number of state bodies affecting forestry and to clearly define their functions. The degree of impact of specific state authorities should correspond to their responsibilities for forest sector activities.

Obligations of forest users may be regulated by the contracts between forest user and forest owner, which is the object of the civil law. In keeping with the classical scheme the forest owner has the right to harvest wood, sell standing or processed timber, to hunt and to organize tourism, to harvest and sell other specified produce, to transfer rights or title to the forest and others (sale, succession, donation, lease etc). He is obliged to regenerate the forest after logging, to follow the rule of harvesting wood and other resources, to take care of forest

stands, to implement the forest management plan, to notify the regional state forestry bodies on his intention to log or to change the land use and to obtain permission thereon, to monitor and protect ecologically valuable forest sites and others. Rights and obligations of temporary users are regulated by contracts with owners or permanent users. The content of these contracts should correspond to the provisions of sustainable forest management and may be in a detail formulated in the accompanying regulation documents. Provisions as to protection of rights of the forest users and termination of the right to use the land plots of the forest fund are the constitutive parts of the civil and forest law.

The introduction of new forms of ownership brings about an issue of free access to forest. In view of the general use of forest resources it is necessary to determine whether the private owner will have the right to restrict free access and if so then under what conditions. As to special use of forest resources it is necessary to indicate the types of uses, their period and conditions with reference to a corresponding regulation document.

Economical issues of the forest utilization are partially regulated by the land Code in the part related to the turnover of the land plots and the right to use them as well as by the norms approved by the Cabinet of Ministers (determination of the size and an order of payment for the use of forest resources). It is advisable to come back in the Forest Code to the issues of determining the payment for forest resources and financial provision of the sustainable forest management (partial state financing, targeted subsidies, centralized fund etc).

Conclusion

In the world of legal practice the requirements of international agreements are prioritized over the norms of national law. Therefore, inclusion of provisions from the international agreements into the forest laws of the countries striving to integrate with the European Union is a powerful incentive for legal improvements. In developing the new forest code it is necessary to consider the requirements of the European Union which in many ways define the structure and content of forest legislation

The analysis of the Forest Code confirms the idea that an effective forest law is mainly of a normative and regulatory character. The increase of the role of forests, complications of forest relations, the striving for international and European integration underline the necessity to change the aspects of the declarative and regulative parts of the forest code and to transfer a considerable amount of norms into by-laws.

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ALTERNATIVE WAYS OF LEGISLATIVE SOLUTIONS OF FORESTRY PROBLEMS IN UKRAINE

By Vitaliy Storozhuk

Abstract

Today forestry in Ukraine has reached a new stage of legislative reform. The new Forest Code aims at securing positive structural changes in the forest sector, evaluating prospects of different ownership categories of forest, outlining functions of the state power bodies, and determining rights and obligations of new forest owners. The appearance of alternative ways for a solution of legal problems is a real proof of democratic tendencies in law making. Let us look at the formation of forest law in Ukraine in the light of European integration processes, and of forest policy development of Ukraine towards sustainable forest management. Let us also specify some problems of the Forest Code and outline alternative ways of the solution.

Forest law development in the context of national forest policy

In line with the modern concept of sustainable development and in view of the Lisbon Ministerial Conference Working Program (1998) the implementation of national forest policy should be considered as fulfillment of sustainable forest management principles at the state level. Forest law in this context is a tool that translates political objectives into real actions.

Among the basic features of Ukrainian forest policy during the period 1990 to 2002 the following points which reflect the choice of a strategy for “slow” reforms in the forest sector should be mentioned:

- Domination of state forest ownership;
- Centralization of authorities and combination of the functions of the ownership and control in the state forest administration;
- Formation of two different forms of forest management in the Carpathian region respectively in other regions in the same legislative environment;
- Extensive development of wood processing facilities in forest enterprises and their forced orientation towards exports.

Since the forest policy of Ukraine is not yet formalized in a single document, it is necessary to introduce its basic provisions (directions) as apparent in the new Forest Code. It is important to interpret the manifestations of forest policy experienced so far as they relate to forest ownership, forest management systems, and mechanisms of economical regulation of the forest sector.

- The overall national forest legislation has been formed being now under revision in the new round of the land law reform;
- The State Forest Program “Forests of Ukraine” has been developed and is currently in implementation;
- The understanding of the necessity to develop this document has become critical among the forest elite.

New general state development guidelines have been formulated in the Decree of the Cabinet of Ministers “On the Concept of Harmonization of Ukrainian Law to the Legislation of the European Union” (August, 1999) and in the Enactment of the Presidential “Program of Ukraine’s Integration to the European Union” (September 2000).

Therefore, the effective regulations of the EU related to the forest sector are an important factor affecting the development of national forest law. However, they are not yet

properly reflected in the draft Forest Codes. Ukrainian law making rather follows the principle of adopting those provisions of the European law that fit into the Ukrainian legal environment instead of harmonizing its legislation with European standards.

Principles of sustainable forest management in forest law during the transition period

The principle of sustainable forest management is explicitly declared in all draft forest codes. However, the term “forest management” is not used in modern forest legislation. Instead, it is united with the term “organization of forestry”. Besides, it is important to distinguish the term “administration of forests”, which includes national and regional forest management programs, forest management planning, state forest inventory.

Evidently, the official Forest Code will hardly use the term “forest management” unless with declaration of its sustainability. As to the national law making specificity, the use of the term “management and organization of forestry” is not the best but an acceptable approach of the forest code in the transition period. It finally justifies the declaration of the “sustainable forest management” principle and allows uniting two Ukrainian terms into one in the next forest code.

Addressing such a simple example from “transition” terminology let us remember that in the transition to a market economy in the forest sector passed several stages of law revisions accompanied by the development and adoption of new forest laws. If adoption of the first forest laws was characterized by the appearance of independent states, the next forest laws showed changes in the national legal-normative framework. If provisions of the previous Forest Code did not contradict the principle of sustainable forest management at large, this only indicates that the post-soviet law generally followed the principles of sustainable forest management. If the principles of sustainable forest management are declared in the new Forest Code of Ukraine it will prove a nation-wide recognition of the necessity of sustainable forest management practices at the state level.

The transformation of key provisions of forest law

Forest and Forest Fund Formerly the Department of Research and Technical Development at the Secretariat of the Third Conference of the Parties of the UNO Framework Convention on Climatic Changes (Kyoto, 1997) prepared a set of terms on forests, forest lands, forestation and forest regeneration (Rome, 1998) which covers more than 200 forestry definitions. Forest is defined as a legal or administrative unit, an element of the land cover or as an object of land use. The Ukrainian definition of “forest”, which largely repeats the definition of the State Standard (GOST 18487-73) belongs, according to the international classification, to the second group. It is not the forest and its components that are the object of the land use in Ukraine but the “forest fund” and its lands. This notion is inherited from the former legislation considering forest and land as separate objects of law.

The new Land Code of Ukraine (2001) corrects the term “forest fund” by excluding forest protection belts and other line forest stands and by generalizing provisions as to legal regulation of the land of different funds. It may be projected that this legal solution will result in:

- Redistribution of land funds, which will lead to a decrease of the forest area in the country (by more than 700 000 ha). “On paper” the forest cover will drop from 15.6% to 14.3.
- Disputes in identifying the land status and classification of land under different funds will increase. Numerous forest reserves, national and regional parks, preserves, stows (natural reserve fund), forests of green zones (recreation land), forests along rivers and other water bodies (lands of the water fund) etc. will fall under special regulation.
- Urgent revisions of the a system of forest division by targeted designations will be necessary.

- Corrections of statistical reporting and program documents related to forest protection, forestation, forest amelioration, and optimization of forest coverage will need to be undertaken.

Besides, the doctrine of “forest fund” becomes evidently ineffective when it comes to the development of non-state ownership of forest. It is rational to radically refuse the “forest fund” concept in the Forest Code and to adopt the category of “forest lands” as it is done in the majority of the European countries.

Targeted Division of Forests: The issue of targeted division of forests in the new Forest Code of Ukraine may be solved by different ways. If to adhere the strategy of the Land Code, then the lands of different targeted designation should be placed under different funds managed by specialized bodies under special regulations. In this situation one and the same forest stand may be considered in different land funds. Under this approach the forest coverage of Ukraine will decrease by a transfer of forests into nature-reservation, water, recreation and other funds, and the issue of forest division into groups and categories will become purely rhetorical.

In practice Ukraine uses another approach based on recognition of the fact that the forests in the territory of any land fund are part of the forest fund with lands being the object of forest law. Today this has resulted in multilevel system of forest division by targeted designation (land funds, two groups and almost 40 protection categories) that should be changed since it obstructs sustainable forest management. In following this principle it is logic to refuse fixed protection categories and to increase the number of forest groups as categories corresponding to certain targets of forest management.

Forest Resources: It is generally recognized that forest resources include standing trees, other components and products of the forest in combination with environmental protection, as well as social functions and values. Ukrainian lawmakers classify as forest resources only material forest products such as harvested wood, collected medicinal and technical raw materials, harvested feed and food products. At the same time the distribution of forest resources by their significance provides that final fellings of wood and resin production are of state significance and other forestry outputs rather more of local significance. This observation results from a discrepancy of definitions:

- Ukrainian forests accommodate almost 2 billion m³ of wood which, however, is not recognized as forest resource. Only 10-12 million m³ of the annual wood harvest become the “resource”, about 5 million m³ (part of the total volume) being the “state resource”.
- Wood from one and the same forest stand becomes a resource of the state significance and the property of permanent (including non-state) users as it is harvested under the term “final felling”. Resource of local significance is harvested under thinnings.

To properly define “forest resources” it is necessary to introduce the term “forest products” and to divide the forests by their general significance (forests of state and local significance) but not by their separate components.

Development of forest property right in Ukraine

The development of forest ownership rights from 1991 to 2001 proves that legally lands of the forest fund were practically the whole time under state ownership. Only about 7000 ha of land were owned and used by citizens, which is only 0.06% of the total forest fund area. The Land Code of 2001 abolished the state monopoly for forests and induced changes in the ownership structure. Since then “lands of the forest fund may be state, communal and private property”. The right for state property is acquired and implemented the Cabinet of Ministers of Ukraine and local state administrations.

According to the Decree of the Cabinet of Ministers “On Provisional Order of Delimitation of Lands of State and Communal Ownership Rights” (August, 2002), lands

of the forest fund within the boundaries of settlements and lands of the natural-reserve fund of local significance are subject to transfer into communal ownership. Preliminary data demonstrate that state forest enterprises under the State Forest Committee are obliged to transfer into communal property 188 100 ha of lands including 37 900 ha of forests in settlements and 139 100 ha of lands of the nature-reserve funds of local significance. This amounts to a total of 1.7 % of the forest fund area of Ukraine. In addition the Land Code provides a right of permanent use of state and communal lands with a rent as a single form of the temporary use. Land plots of the forest fund may be transferred to the communal and private ownership. "Closed land plots of the forest fund with a total area of up to 5 ha" may be transferred to private property.

In general, Ukraine has introduced a unique regulation of the state forest ownership on forests. The "unique" nature consists in breaking off legal capacities of ownership among different bodies of power. The Land Code provides the right of disposal of the land plots of the state forest fund to the local bodies while the rights to own and use are united into the right of "independent" permanent use granted to enterprises that created forest management units. By that the land law does not have the problem of disposing the lands while the forest law has the problem of disposing the forests.

In compliance with the Land Code, the local bodies of executive power enjoy almost unlimited authorities to dispose of land plots of the forest fund. Legally this is quite correct as the Land Code approves local state administrations as the single subject for disposal of all land categories including lands of the forest fund. However, as applied to state forestry, the departmental, i.e. sectoral approach to forest management is based on the principles of centralism. A territorial approach based on federalism is now employed in the Carpathian region as a prototype of a new forest management system.

Progressive and conservative forest laws

In connection with the development of the Forest Code of Ukraine it is important to make an essential clarification as it is possible to distinguish two ways of structuring the basic forest law. The first implies that the sections of the forest law are structured on the basis of provisions of an adopted forest policy. The second makes the sections of the forest law correspond to the groups of forest relations (as effective in the Forest Code of Ukraine). If the first approach is progressive and facilitates fast development of production relations in the forest sector, the second one is more conservative and less oriented towards social and economical changes. The states aiming at accession to the EU as well as countries with forest-dependent economies are interested in fast development, and choose thus more often the first option.

At the current stage of development the Ukrainian lawmakers will hardly be able to prepare the Forest Code of a new type due to subjective reasons such as a lack of the draft laws of this type in general and forest policy in particular; and due to objective reasons such as the state of public development of the forest sector and of the economy. However, the Ukrainian experience also shows that a rational and adequate "conservative" forest law on condition of balanced management may serve as the basis for new laws and allows preserving functionality of the forest sector even under an economic crisis. New legislation now has the task to resolve numerous conflicts and differences, and to provide a forward looking public framework for the development of the country's forest sector.

SUMMARY OF REPLIES TO COUNTRY QUESTIONNAIRE

KATEŘINA TREJBALOVÁ, KAREL VANČURA

The questionnaire has been distributed with the intention to provide an overview on relevant forest law issues, possible conflicts, and problems and solutions identifiable within the participating countries. With regard to the results, it is necessary to stress that the information obtained represents foremost the judgment of the individual respondents. Respondents from 17 countries (Bosnia and Herzegovina, Czechia, Estonia, Georgia, Germany, Hungary, Iran, Japan, Latvia, Lithuania, Poland, Romania, Serbia and Montenegro, Slovakia, Slovenia, Turkey and Ukraine) provide general information as well as specific information on the causes of conflicts between forest owners and nature protection administration bodies, on reproductive material of forest tree species, on the status of protective areas, and the grouping of forest owners.

1. General Information

Question	1.1 – 1.3 General Information														
	1.1 Forest Cover					1.2 Economic Aspects					1.3 Forest Ownership				
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
	mill. ha	mill. ha	%	ha/cap	1000 ha	%	%	%	%	%	%	%	%	%	%
Country															
Bosnia/H	5.07	2.71	53.4	0.74	2.36	1.32	1.55	2.49	2.04	?	78.4	0	0	21.6	0
Czechia	10.34	2.69	34.0	0.26	25.8	0.6	0.6	1.7	0.3	0.83	61.5	15.5	0	23.0	0
Estonia	4.51	2.25	49.9	1.66	23.4	2.5	1.8	3.7	0.5	2.2	37.0			32.0	31.0
Georgia	6.95	3.01	39.9	0.6	**)	1.30	***))	0.1		0.1	100				
Germany	35.7	10.7	30.2	0.13	5.0	0.06	0.1	0.9 ¹	0.06	0.6	33.9	19.8		46.3	
Hungary	9.30	1.80	19.4	0.18	10.9	0.3	0.2	1.0	< 1	< 1	59.0	0.8		26.4	13.8
Iran	164.0	12.4	7.6	0.2	185.0	0.19	1.3	1.9	0.43	0.78	71.0	27.0	1.1		0.9
Japan	37.8	25.1	66.5	0.2	38.0	0.1	0.1	0.4	*	*	31.2	6.1	4.8	57.9	
Latvia	6.46	3.20	45.0	2.90	0.5	1.8	2.4	4.6	0.3	2.9	50.0	4.0	4.0	42.0	
Lithuania	6.53	1.96	31.0	0.55	*	0.6	0.9	2.4	0.5	2.0	50.0			25.0	25.0
Poland	31.2	8.89	28.4	0.23	20	0.37	0.36	1.20	0.30	1.92	81.7	0.9	-	16.3	1.1
Romania	22.8	6.79	27	0.28	0.8	2.4	0.90	2.10 ²	-	-	64	7 ³	10 ⁴	6	13
Serbia/MN	8.8	2.30	26.2	0.25	2.4	0.56	0.40	2.00	1.80	0.40 ⁵	55.0	0.93	0.24	43.8	
Slovakia	4.9	2.01	40.9	0.37	0.2	0.54	1.04	1.43	0.20	1.60	42.4	24.4	9.7	14.7	8.8 ⁶
Slovenia	2.0	1.14	56	0.57	35	0.30	*	*	*	*	30	1	1	68	
Turkey	78.0	20.7	26.6	0.3	110	0.60	1.25	1.75	1.00	*	99.0		0.05	0.05	
Ukraine	60.4	10.8	15.6	0.2	3.7	0.54	0.32	0.49	0.27	0.56	98.2	1.7		0.1	

*) data not available

**)) Georgia: afforestation (1996-2000) 28,684 ha; illegal deforestation in the same period 186,909 ha (!)*

***)) Georgia: 50% - forestry, agriculture, hunting

¹ including pulp and paper industry, without furniture industry

² without furniture industry

³ undivided common ownership (composesorates etc.)

⁴ towns, communes

⁵ state enterprises only

⁶ 3.2% church; 5.6% unknown

Key to Table 1.1 –1.3

1/1 – Forest coverage: 1 - country area; 2 - area of forests and other wooded land; 3 - forest coverage; 4 - forest area per capita; 5 – average area of afforestation (or deforestation) in the past five years

1/2 – Role of forestry in the national economy: 6 - share of forestry on GDP; 7 - share of forestry on total employment; 8 - share of wood-processing industry on total employment; 9 - share of investments in forestry on total investments; 10 - share of investments in wood processing industry on total investments

1/3 – Forest ownership: 11 – state; 12 – communal; 13 – other public; 14 – private; 15 – other

1.4 Forest Legislation

Question	1.4 Current Policy and Legislation					Note
	1/1	1/2	1/3	1/4	1/5	
	policy	forest act		nature protection act		
	year	year	change	Year	change	
Country						
Bosnia/H	*)	2002	yes	1985	yes	Forestry Development Prgm.
Czechia	2000	1995	yes	1992	yes ⁷	The first policy in 1994
Estonia	1997	1999	yes	-	*)	*) Act is being prepared
Georgia	1997	2000	yes	2000	yes	
Germany	*)	1975	no	2002	no	*) Varying ⁸
Hungary	2004	1996	yes	1996	yes	
Iran	1963	1965	yes	1968	yes	
Japan	1951	1897	-	1972	-	
Latvia	1998	2000	yes	1995 ⁹	yes	
Lithuania	2002	1994	yes*)	1992	yes	*) revised in 2001
Poland	1997	1991	*)	1991	*)	*) amended several times
Romania	2001	1996	no	2000	yes	
Serbia/MN	*)	1991	yes	1991	yes	*) no official forestry policy
Slovakia	2000	1977	yes	2003	no	
Slovenia	1993	1993	*)	1999	*)	*) amended in 2002
Turkey	1937	1937	yes	1956	no	
Ukraine	*)	1994	yes	1991	yes	*) under preparation

Key to Table 1.4

1/1 - Current forestry policy has been adopted in the year:

1/2 - Forest Act exists since the year:

1/3 - Are there any ideas on the change of this law?

1/4 - Act on Nature protection exists since the year:

1/5 - Are there any ideas on the change of this law?

1.5 Describe the reasons for proposed changes of the legislation

Bosna/H.

1/ Forests: Some amendments regarding organization and financing of forestry sector already exist. The main reasons for these amendments are: low efficiency of current organization proposed by the Law, difficulties in implementation because of overlapping responsibilities (Federation vs. Cantons), absence of consistent forest policy at the Federation level.

⁷ Just discussed in the Parliament.

⁸ According to the particular „Länder“ (federal state).

⁹ Law on Specially Protected Nature areas (1993), Law on Species and Habitats Protection (2000), Law on the Protection Belts (1997), Law on Environment Protection (1995)

2/ Nature protection: The new set of legislation has been prepared through an EC project "Preparation of Environmental Law and Policy in B&H." The following laws are currently under parliamentary discussion: Law on Environment Protection, Law on Waters Protection, Law on Nature Protection, Law on Waste Management, and Law on Air Protection.

Czech Republic

1/ Forests: The law has been amended several times in the past three years. Another amendment is proposed in connection with the new law on Marketing of forest trees reproductive material reflecting the necessity of harmonization national legislation with EU regulations. There was a proposal in 2000 to postpone the discussion on a general change of the Forest Act for 4 years, i. e. to 2004.

2/ Nature protection: The Act on Nature and Landscape Protection is currently discussed in Parliament.

Estonia

1/ Forests: The Estonian Forestry Development Programme was approved by Parliament in November 2002. The legislation (Forest Act) has to be harmonized with the development programme.

2/ Nature protection: There is need for a new Act. The Act on Protected Nature Objects was passed in 1994; last changes were implemented in 2001. The Ministry of Environment drives the preparation of the new Act to cover nature protection as a whole.

Georgia

1/ Forests: Principles of forestry funding; Receiving the act for the division of competencies between the region and the center concerning to forest management.

2/ Nature protection: a) There is no special legislative act concerning to plant protection; b) There is only one edition of GRDB, which was published more than 20 years ago (1982). Consequently there is urgent need of a modern edition; c) Much more should be done in science providing for Environmental Programmes.

Germany

No changes are presently foreseen.

Hungary

1/ Forests: Hungary continuously adjusts forestry legislation - in decree level – in order to follow changing social and economic circumstances. The Decree of the Minister of Agriculture No 29/1997 (IV. 30.) FM on the rules pertaining to the implementation of the act No LIV of 1996 on forests and the protection of forests is under continuous actualization. The Phare Twinning programme on forestry information systems had a legal harmonization sub chapter and there are some proposals for amending the present regulation. For example by underlying the importance of NATURA 2000 areas, forest fires control and EFICS issues.

2/ Nature protection: Nature protection is the responsibility of Ministry of Environment and Water management. Their principle is nature protection and there is some collision between forestry as a productive activity, and biodiversity and static conservancy methods. Of course, the Nature Protection Board also prepares the nature protection related legislation in line with the EU and Natura 2000 requirement.

Iran

1/ Forests: Not having adequate experiences plus compiled relevant law before. Circumstances that came into the situation of forest later - not to be aware of current European forest law besides our forest distinctive situation there is need of new adjusted and comprehensive legislation. Consequently through students educated in the field of forest legislation in European countries some changes were identified to be consider.

2/ Nature protection: Similar situation as above, moreover high progress in forestry science especially by translation of European law and knowledge. Therefore, specific considerations are needed.

Japan

No changes are presently proposed.

Latvia

1/ Forests: A very active discussion takes place concerning the splitting of forest holdings with the purpose to evade the restrictions for final felling - regenerate before next clear cut. The suggestion is to limit management activities – forbid clear cut, in split holdings for 10 years.

2/ Nature protection: Compensatory mechanisms for forest management restrictions in nature protection areas – methodology for appropriated calculation and etc.

Lithuania

1/ Forests: Improvement of forest and environment management.

2/ Nature protection: Nature protection management according to EU regulations.

Poland

1/ Forests: The forest act has been amended several times: Mainly adaptation of the Act on Forest to requirements of the State Policy on Forests as for example legalization of the forest promotional areas, provision of public funds for realization of the National Program for Extending of Forest Cover, changes in forest tax concession calculations rules, and administrative changes.

2/ Nature protection: Amendments: mainly extension of the scope and goals of nature protection, implementation of plans for nature protection in national parks, nature reserves and landscape parks, enhancement of local communities' and NGOs' participation in settlement and changing the area of national parks, administrative changes and other issues.

Romania

1/ Forests: - aspects regarding the management of private forest owned by individuals (physical persons); - empowerment of the private forest districts to conclude contracts for the administration of private forests owned by individuals and legal entities; - establishment by the private forest management structures (private forest districts) of a special fund for forest regeneration; - aspects regarding the financial and functional autonomy of private forest management structures; - strengthening of the territorial inspectorates for forest and wildlife regime.

2/ Nature protection: Establishment of the borders for the large protected areas (national parks, natural parks and biosphere reserves) and their administration arrangements.

Serbia/MN

1/ Forests: Need for some specific changes in current Law on Forests occurred at the beginning of transition process in Republic of Serbia (2001). The new Forestry Law should be harmonized with EU legislation.

2/ Nature protection: Transition; harmonization with EU regulations; environmental conventions; system changes regarding environment protection.

Slovakia

1/ Forests: Forest Act dates back to 1970s so there is a need for a “modern” piece of legislation on forestry.

Slovenia

1/ Forests: Incentives/subsidies were harmonized with EU Council Regulation 1257/99.

2/ Nature protection: Minor changes concerning institutional provisions, administration measures and corrections of the transposition of the Wild Birds Directive and the Habitats Directive were made.

Turkey

1/ Forests: Nowadays, the new Turkish Government has been attempting to amend The Forestry Code of 1956 No. 6831, to sell some of the previously occupied forestlands to the ones who settled illegally, because of financial considerations. Particularly article 2/B of Forest Code of 1956 is problematic

from a forest protectionists and environmentalists' point of view. Article 2/B has some provisions that give authority to the Forestry Department to take such forestlands as less productive out of forestry. By relying on this statute, the General Directorate of Forestry has taken almost half a million hectares of forestlands out of forestry, and has given authority to the Turkish Treasury Department. But in reality some of the people occupied those areas, built houses and established ghettos next to main metropolitan areas such as Istanbul, Ankara, Izmir, and other big cities. Moreover, the occupied forestland has exceeded the area taken out of forestry by the Forestry Department. This means that may be several thousands of forestlands next to the metropolitan areas have been looted and converted to real estate illegally and free of charge. Even, some official buildings such as police stations are built in previous forestlands. Since the government is short of money, it plans to sell those occupied forestlands to the settlers at free market value. By doing this, they plan to create an income source. Secondly, they want to have that occupation made legal. But it might become more productive in agricultural usage out of forestry. In reality, those degraded lands were converted not to agricultural usage but to residency areas as real estate. Here, the problem is article 169 of Turkish Constitution and article 2/B of Forestry Code of 1956. The occupiers support the plan, whereas some environmentalists and foresters and city planners object it. At present, a severe debate has been engaged on that issue.

Ukraine

1/ Forests: Adoption of the new Land Code of Ukraine (October 2001). Revisions of the existing Forest Code are under preparation.

2/ Nature protection: This law is basic with respect to all the environmental laws and was one of the first laws adopted in Ukraine. That is why it is periodically corrected subject to changes in other laws or to adoption of new laws, as well as to new international commitments of Ukraine in recent years.

1.6 Is forestry research specifically mentioned in your legislation?

Bosnia/H

Yes. Article No. 57 and 59 of the Forest Law describe the scope of activities of Federal and Cantons' Forestry Services among which are preparation and implementation of forestry and game management research and transfer of knowledge.

Czech Republic

The last conception of forest policy adopted for the period before accession of the Czech Republic to the EU supposes to define the position of the Forestry Research Institute in the Forest Act. Overall amendments to the Act have been postponed to 2004.

Estonia

It is mentioned in the Forest Act that forests might be used also for the education and research.

Georgia

Yes. a) Forest use for scientific research and education; b) Carrying out forest use for scientific research and education.

Germany

No regulation in the Federal Forest Law, but in any forest laws of the "Länder" (federal states).

Hungary

The Hungarian forestry legislation doesn't deal with the research question, but deals with the research related to primary functions of forests. There are supporting measures for forestry related research in the Hungarian Agricultural System.

Iran

Yes. An evident case is the forest research institute, which was approved to be established in 1969 in 7 rules and 2 exceptions. At the moment, it contains branches such as seedling and seed sources, plant pathology and pedology.

Japan

No.

Latvia

Yes. According to the Law the Forest Development Fund is set up for funding forestry support and development programmes, forest research and the forest extension for private owners, and special scientific research forests are to be developed for creating and maintaining appropriate sites for long-term forest research.

Lithuania

Yes, in the Forest Act.

Poland

Act on Forests:

- The Director General of the State Forests (Holding) initiates, enhances and finances research in the field of forestry and supervises the utilization of the results of this research;
- Financial means of the forest fund (internal fund of the State Forests) may be directed to the research;
- One of the goals of forest promotional areas establishment is – according to the Director’s General regulation – research on sustainable forest management rules.

Romania

Forestry research is specifically mentioned in article 110 of the Forest Act – Law No. 26/1996, which stipulates that the public authority for forests (Ministry of Agriculture, Food and Forests) coordinates forestry research. Forestry research is currently undertaken by the Forest Research and Management Planning Institute (ICAS). The institute is functioning according to Governmental Decision No.173/2001 and Law No. 633/2002 as a legal entity within the structure of the National Forest Administration. There are three higher education forestry institutions (Brasov, Suceava and Oradea) which also undertake forest research.

Serbia and Montenegro

Yes, the current Law on Forests (Art. 60 and 61) give the possibility to provide some financial support for research in forestry.

Slovakia

No.

Slovenia

Forestry research is mentioned in articles 72 to 74 of the Forest Act. It is elaborated further in the NFP.

Turkey

The Organic Act of the General Directorate of Forestry of 1985, No. 3234, article 2, has some provisions.

Ukraine

The Forest Law provides the allocation of forest funds for research purposes. Conduct of forestry research is specified in the Forest Code of Ukraine.

Summary:

Forestry research is mentioned in some way in the forest legislation of most respondent countries with exception of Japan and Slovakia. However, the context in which forestry research is mentioned significantly differs from case to case. Some answers stress the aspect of use of forests for scientific purposes (Estonia, Georgia, Latvia, and Ukraine), or mention research related to primary functions of forests (Hungary). Other respondents emphasize the question of funding of research activities (Hungary, Latvia, Poland, Serbia and Montenegro) in their legislation. Also the level, at which the research is addressed, varies. In Germany by forest law of "Länder", in the case of Bosnia and Herzegovina at both regional and federal level, but in most cases at the national/state level (e.g. the case of Romania, where the Ministry of Agriculture, Food and Forests, i.e. central state administration body, coordinates forestry research). A specific situation exists in Poland where forestry research is organized and supervised by the State Forests. In Iran the relevant provision of forestry legislation has lead to the establishment of a forest research institute. Slovenia stressed the role of its NFP for the promotion of forest research.

1.7 Have your country prepared or adopted the National Forest Programs (NFP)?

<i>Question</i>	1.7 National Forest Programs					Note
	1	2	3	4	5	
	no	yes	prepared	discussed	adopted	
Country						
Bosnia/H	x					
Czechia					2002	
Estonia					2002	
Georgia					1997	
Germany			yes*)		2000	*) phase 2
Hungary			yes			
Iran					2002	
Japan	x					
Latvia		x	*)			*) just beginning
Lithuania		x				
Poland			30%			
Romania		x				
Serbia/MN			yes			
Slovakia	x					
Slovenia					1996	
Turkey					1977	
Ukraine					2002	State programme 2002-2015

Key to Table 1.7

- 1** – No intention to work out the NFP.
- 2** – An Intention to prepare the NFP.
- 3** – Preparatory phase of the NFP.
- 4** – The NFP prepared, just discussed.
- 5** – The NFP adopted in the year:

1.8 Main ideas and issues of National Forest Programs (NFP)

Bosnia/H

No intention to prepare the NFP in sense of MCPFE activities. National Forestry Project financed mainly through WB started in 1998 with the objective to resume sustainable management and protection of forest resources.

Czech Republic

Managing forests according to the principles of sustainable forest management; Development of the productive and non-productive functions of the forest; Maintenance and enhancement of the biological diversity of forest ecosystems; Ensuring production and use of raw timber; Managing forests in specially protected areas; Protection of forest ecosystems against harm factors; Implementation of the NFP in the regions.

Estonia

Privatization of forests. Forest management. Protection of forest ecosystems. Institutional development. Support to small-scale private forestry. Management of state forests. Forests and timber processing industry. Multiple uses of forests. Research and education.

Georgia

- a) Main principles of forestry policy and its social-economic development strategy;
- b) Improvement of the legislative base;
- c) Main directions of economic reforms and measures for improvement of forestry management;
- d) National Forest Programme;
- e) Forest restoration national programme;
- f) Improvement of multilateral forest use;
- g) Creation of social defense guarantees for forestry workers.

Germany

Forest and Society, forest biodiversity, forests and global carbon balance, importance of timber as renewable resource, forest and forest industries and the development of the rural areas.

Hungary

- Social value of forests - tasks of forests for the environment, ecology and economy in Hungary, tasks of the multifunctional forestry in Hungary
- Sustainable forestry in sense of the UNCED-Rio definition 1992 and the Pan-European-MCPFE process
- Forest as environmentally sound land use form
- Definition of the functions and tasks of the society oriented maintenance of forests.

The National Forest Programme is based on the principles and guidelines of the National Forest Strategy, has a mid-term with a validity of 10 years for its implementation. The NFP is set up of sub programmes concerning forests and related fields with concrete objectives to be achieved in this time frame. One of its major characteristics is that it will be elaborated not only with participation of the classic forest policy making institutions but also of other stakeholders, e.g. other governmental sector representatives, NGOs, other actors in society with particular interest in forests (NFP Co-ordination Bureau Hungary, 2002).

The NFP in Hungary has to answer conflicts and problems originating from the new conditions and structure changes of the political-economical system transition. These meant very different interests of stakeholders of the forestry sector by the implementation of sustainable forestry mainly by regulation and use questions.

Iran

- Iran is a country with low forest cover. Due to the influence of European legislation; a more fundamental approach and more care for forest areas may be noticed. Relevant issues are:

- To consider today's condition such as: wood demand & utilization, imports & exports forest products should be reviewed.
- Present matters such as: social-economic problems, being domestic animals in forest must be solved.
- Some issues such as: New forestry methods and forest legislation should be considered.

Japan

No information provided.

Latvia

The National Forest Cluster Programme is to be elaborated as a medium term (for the time period from 2003 to 2012) document. The task of NFCP is to formulate strategic goals for the forest cluster long-term development, elaborate in detail and in balance with the development of other sectors of the national economy. An implementation program would ensure: sustainable management of forests and forestland, expanding Latvia's forest cluster products market, activities to increase the renewable forest products consumption at the internal market, integration of education and research into the forest sector, coordinated development of forest products utilization and wood energy; forest sector contribution to sustainable rural development, and effective land-use.

Lithuania

No response.

Poland

The Polish NFP will offer a wide political framework for achievement of sustainable forestry.

1) In accordance with the national law regulations and the international agreements, 2) partnership and participation of all stakeholders, 3) comprehensive and cross-sectoral agreement on maintenance and development of forests, 4) long term and permanent processes of planning, implementation, and supervision and monitoring.

Romania

No response

Serbia and Montenegro

In the case of Serbia, the NFP could include (FAO, 2002): Institutional strengthening; Forestry research and technology development; Education training, extension and public information; Comprehensive forestry information system; Afforestation; Sustainable forest management; Forest waste utilization; Forest fire management; Rehabilitation and modernization of forest-based industries; Development and utilization of non-wood forest products; Biodiversity conservation and protected area management; Wildlife and hunting management; Trans-boundary and wider international cooperation.

Slovakia

No response

Slovenia

Multifunctional forestry. Close-to-nature forestry. Taking account of the importance of forests to farmers, especially in mountainous areas. Enhancing biodiversity in forests.

Turkey

- Turkey should manage its forest by considering sustainable development as a pillar.
- Combating forest fires is another important issue to be considered.
- In addition, biological diversity and species protection, reforestation and erosion control are other relevant issues.

Ukraine

Status of forests and their importance; Main trends of forestry development; Financial and resource provision of the Programme; Legal and scientific provisions; Expected results; Programme management and monitoring; Measures on implementation of the Programme.

1.9 What are the main problems of forestry in your country?

Question	1.9 Main Problems in the Country		
	1	2	3
Country			
Bosnia/H	Lack of long-term forest strategy and policy between two entities (Federation of B&H and Republic of Srpska).	Institutional problems in forestry sector that are heavily connected to basic principles and legal organization of the State arranged by the General Framework Agreement for peace in B&H (initiated in Dayton and signed in Paris 1995)	Corruption and privatization in forestry sector.
Czechia	Low rentability.	Conflicts between forest management and hunting.	Restrictions of forest owners are not well compensated.
Estonia	Management (and especially reforestation) of small-scale private forests.	Harmonization of legislation (forestry, nature protection and land use planning)	Harvesting is too intensive (felling volumes increased rapidly in the second half of 1990ies)
Georgia	Relevant funding.	Improvement of institutional structure for the management of forest ecosystems.	Creation of infrastructure for the management of forest resources sustainable development.
Germany	Decreasing rentability.	Increasing restrictions of forest ownership rights.	Conflicts between forest management and hunting.
Hungary	The relative high proportion of "unknown" ownership.	Lack of capital in the forestry related sector.	High game population density.
Iran	Social-economic matters as follows: Domestic animal, unallowable logging.	Newly established forestry in Iran, hence to be in need of up to date data as European experts.	No performing rules perfectly because of lack of teaching enough.
Japan	Low price of wood.	Lack of appropriate thinning on plantation forests.	Short of forestry workers.
Latvia	Forest regeneration with high-quality species and maintenance of young stands in private forests.	Distortions on the "standing timber" market evolving from long term agreements signed in the first half of 90's. (Some parts of the market players have stable and secured supply of resources while others have to be in free market (private forests).	Lack of forestry and wood industry joint development strategy.
Lithuania	Land reform is going slowly.	Weak cooperation of small forest owners.	Weak wood processing industry.
Poland	Lack of private forest owners associations.	Monopolistic position of the State Forests on wood-market.	-
Romania	Ongoing forest restitution process.	Sustainable management of private forests.	Institutional capacity (mainly relates to law enforcement and control).

Serbia/MN	Problems with management of private forests, deriving from their unfavorable structure (Large number of separate holdings, small areas and volumes per ha), lack of owner association and state support.	Lack of clearly identified forestry policy Disharmony of current laws with EU legislation.	Need for reorganization of public enterprises, responsible for state forests management. Necessity for transformation of enterprise ownership, decrease number of employees to increase of business efficiency.
Slovakia	Financial support to forestry from public sources.	Indemnification of forest owners.	Relations between forestry and wood processing industry.
Slovenia	Low interest in management of small private forests, (thinning prevailing with unprofitable extraction of pulp and firewood.	Subsidies needed.	Growing nature protection one-way thinking.
Turkey	Rural Development and poverty.	Ownership conflicts and statutory incompetence.	Forest fires and deforestation.
Ukraine	Development of National Forest Policy; Development of legal basis of the Programme.	Development of forest management system, forestry reforming in compliance with new socio-economic conditions.	Improvement of financing to forestry.

2. What are the main principles of trade with the forest reproductive material?

Question	2					Supervising body	2/3 Problems?
	2/1						
Country	1	2	3	4	5		
Bosnia/H	yes	yes	no	no	?)		?)not known
Czechia	yes	yes	yes	no	yes	Ministry of Agriculture	-
Estonia	yes	no	no	no	yes	Center of Forest Protection and Silviculture	*
Georgia	1)	-	no	no	-	St. Forestry Dept., Ministry of Environment	*
Germany	-	yes	yes	yes	-	<ul style="list-style-type: none"> Federal Office for Agriculture and Nutrition Control agency for forest reproductive material – on Ländern level 	no
Hungary	yes	yes	yes	yes	-	National Institute for Agricultural Quality Control	-
Iran	yes	yes	no	yes	yes	Khazar Forest Seed Center	yes
Japan	-	-	-	yes	-	-	-
Latvia	yes	yes	yes	yes	-	State Forest Service (SFS)	Implementation up to quality OECD scheme
Lithuania	yes	-	yes	no	yes	Inspection of Quality of Forest Seed and Planting Material	-
Poland	-	yes	yes	no	yes	<ul style="list-style-type: none"> The Bureau of Forest Seed Production The National Commission on Forest Seed Production 	-
Romania	yes	-	yes	yes	-	<ul style="list-style-type: none"> The Ministry of Agriculture, Food and Forest Territorial Inspectorates for Forest Forest Research and Management Planning (ICAS)Institute 	-
Serbia/MN	*	2)	yes	no	yes	Forestry inspectors	*
Slovakia	yes	yes	yes	yes	-	Forest Research Institute	*
Slovenia	*	yes 3)	yes 4)	yes 5)	no	No	*
Turkey	*	*	no	*	*	Seedling Cultivation Institute in Ankara	no
Ukraine	*	yes	no	no	yes	The State Forestry Committee of Ukraine	*

*) no response

Key to Table 2.1 – 2.3

2.1 Forest reproductive material is treated by:

- 1) Forest Act
- 2) Special law
- 3) EC 105 implementation
- 4) OECD scheme joined
- 5) Intention to join OECD scheme

2.2 Special body established to inspect dealing with reproductive material

2.3 Any problem with OECD scheme (if accepted)?

Comments to 2.1:

- 1) Documents authorising forest use, system of forest use documents, issuing a license for forest use
- 2) Ongoing process to finish Draft Law for seed and nurseries
- 3) Forest Reproductive Material Act
- 4) Partially
- 5) Only for agriculture

3. What is the extent of the specially protected areas system in your country in terms of percentage of forestland, and proportion of private and public forests in specially protected areas?**Key to Table 3**

3.1 What is the percentage of forests included in the specially protected areas in your country?

3.2 What is the proportion of private and public forests in specially protected areas in your country?

3.3 Will your country follow the NATURA 2000 concept? Yes, no.

3.4 Do you expect that the share of protected forest will increase in your country? Yes, no.

4. Are there conflicts between forest owners and nature protection administration bodies in your country?**Key to Table 4**

4.1 How often do they happen?

1 – never at all; 2 – rarely; 3 – occasionally; 4 – often; 5 – very often

4.2 How intensive are they?

1 – negligible; 2 – moderate; 3 – intermediate; 4 – serious; 5 – very serious

4.3 Main cause of the conflicts

1 – violating of legal provisions; 2 – restriction of management; 3 – administrative load;

4 – lack of financial compensations; 5 - others

4.4 Does the legislation of your country address the relationship between the “public interest” and possible loss caused to forest owners?

4.5 Is the “public interest” defined in your legislation?

4.6 Does the legislation of your country address the supervision over the forest management from the environmental protection point of view?

Country	3.1 – 3.4 Protected Area System					4.1 – 4.6 Conflicts Nature Protection					
	protected areas					conflicts			public interest		super vision
	%	public	private	Natura 2000	increase	often	intensive	?	public interest	legisl.	envi
	3/1	3/2		3/3	3/4	4/1	4/2	4/3	4/4	4/5	4/6
Bosnia/H	0,94	*		no	yes	4	4	2, 4	yes	yes	yes
Czechia	23,6	*		yes	yes	4	4	1,2,4	yes	yes	yes
Estonia	7,2	95	5	yes	yes	3	3	1	comp	*	yes
Georgia	6,0	*		*	yes	*	*	*	*	*	need
Germany	18,0	97	3	yes	yes	5	4	2,3,4	yes	yes	yes
Hungary	19,4	28,2	7,2	yes	yes	4	4	2,4	yes	yes	yes
Iran	10,0	100		yes	yes	4	3	4,5	yes	*	yes
Japan	5,0	95		no	yes	2	2	1	yes	yes	yes
Latvia	15,7	63,7		yes	yes	3	2	2,4	yes	no	yes
Lithuania	11,9	70		yes	yes	2	1	2,4	yes	no	yes
Poland	51,2	84,8		yes	yes	3	4	2,4	yes	no	yes
Romania	6,0	100	0	yes	no	3	2	5	yes	yes	yes
Serbia/MN	14,8	95		yes	yes	3	1	2,4	yes	yes	yes
Slovakia	43	*	*	yes	yes	4	4	2,3,4	no	no	yes
Slovenia	8,0	80		yes	yes	2	1	2	yes	yes	yes
Turkey	17,5	100		yes	yes	4	4	2	yes	no	no
Ukraine	56,0	100		yes	yes	3	2	1,2	yes	yes	yes

*) no response

4.4 How does the legislation of your country address the relationship between the "public interest" and possible loss caused to forest owners?

Bosnia/H

It is prescribed in current forest legislation. Practically, damages and losses in private forests caused by forest enterprises have to be reimbursed through negotiations (preferable) or court decision.

Estonia

When maintaining key-habitats, owners will get compensation.

Georgia

No response

Germany

The relationship between "public interests" and "ownership" in general is regulated in article 14 of the German Fundamental Law. Further concretions for landowners are decided upon by individual court decisions. A special article or regulation, which determines the relationship between "public interests" and forest owners in general doesn't exist. However, there are regulations on sustainability, on conservation and recreational functions, and on the right of public access in the Federal Forest Law (§§ 9-14). Further special regulations exist in the forest laws of the Laender.

Hungary

There are some sentences in the Act on Nature Protection about compensation for possible loss; however there is no implementation regulation to bring this into practice.

Iran

While it is announced "national interest" or "for sake of public interest", forest owners either receive equal land in non-woodlands or are paid according to a fair price.

Japan

The government has been providing subsidies for plantation, thinning, and other forest tending operations for creating healthy forest.

Latvia

Liga Mengele explains the problems of Latvia in this case in her presentation (*see respective country paper*).

Lithuania

There is a possibility of compensation according to the Forest Law.

Poland

In order to ensure the general protection of forests, forest owners are obligated to shape a balance in forest ecosystems and to increase natural resistance of tree stands through:

- 1) Implementation of prophylactic and protective measures to prevent the outbreak and spread of forest fires,
- 2) Taking prophylactic actions, and to search for and control harmful organisms excessive numbers and spreading,
- 3) Protection of forest soils and water.

Forest owners are obliged to maintain forests and to ensure the continuity of their use. Methods relate in particular to:

- 1) The conservation of forest vegetation (forest stands) and natural bogs, meadows, and peat lands within forests,
- 2) The reintroduction of forest vegetation (forest stands) to forests within 2 years of the removal of the stand (in cases of removal forests due to forest fires and natural disaster – 5 years),
- 3) The cultivation and protection of the forest, including protection against fires,
- 4) The conversion of tree stands that do not ensure the attainment of the determined objectives for forest management contained in the simplified forest management plan,
- 5) The rational use of the forest made with:
 - a) Wood harvests within limits that do not exceed the productive capabilities of the forest,
 - b) Harvests of raw materials and forest by-products by ways ensuring the possibility for their biological restoration, as well as the protection of herbaceous cover.

Forest owners, as it is stated in the Act on Forests, receive financial support from the state budget in the following instances:

- 1) Forest management and protection in connection with restructuring of tree stands in cases when it is not possible to determine those responsible for forest damage, arising as a result of the impact of industrial gases and dust, forest fires or a natural disaster caused by biotic and abiotic agents, and if this damage threatens the sustainability of forests,
- 2) Preparation of the simplified forest management plan,
- 3) Covering in full or in part expenses connected with afforestation of marginal lands,

Moreover the State Forests shall be responsible for the support to private forest owners through the following:

- 1) Covering of the costs of control and protection measures in the forests threatened by the occurrence of harmful organisms,
- 2) Technical advice in forest management,
- 3) In specially justified cases, providing (free of charge) seedlings of forest trees and shrubs for the regeneration of forest cover (forest cultures) – in agreement with the simplified forest management plan.

A forest owner may prohibit access to a forest that is his property, marking this forest with posters with a relevant inscription.

Romania

No compensations are provided to forest owners for public services their forests are providing (Quest. 1) According to Governmental Ordinance No. 96/1998, amended and republished in the Official Gazette on the 26th of February 2003, Art. 29, paragraph g) the state will provide financial support to owners of forests with special protection functions. Compensation may be given equivalent to the loss due to the restriction imposed by the management plan in forests with special protection functions. According to the paragraph h) of the same article the state will provide financial support for the administration of forests by authorized structures when the income obtained from the managed forests in accordance with the provisions of the forest management plans does not cover the administration costs. (Quest 2)

Serbia and Montenegro

Since private forests in Serbia present a significant part of the total area, and in order to improve management of private forests accomplishing all functions of forests SE Srbijasume may take over competent work in all forests on the territory of Republic of Serbia (Art. 10 Law on Forests 1991)

Slovakia

The issue is not clearly addressed. There is just one new legal provision, issued by the Government, dealing with compensation of non-state forest owners for restrictions imposed on the utilization of their forests in the interests of nature protection and landscape conservation.

Slovenia

If the owner is seriously limited in his usufruct right he is entitled to compensation. Normal multifunctional management of forests is not considered as a limitation.

Turkey

The Forestry Code of 1956 has some provisions that give rights to forest villagers to collect wood and harvest residues to heat and cook. Also, the Forestry Department should sell lumber and timber to those villagers at lower prices to build houses, schools, mosques, and bridges etc.

Ukraine:

The Land Code provides financial redemption for owners in case of alienation of the land plots for public needs. (Quest. 1) The legislation provides for various compensation instruments for such situations (money, giving another land plot instead, etc.). (Quest 2)

Summary: Generally, the relationship between "public interest" and possible loss caused to forest owners is addressed, at least theoretically, either by forest laws (Bosnia and Herzegovina, Lithuania, Poland, Serbia and Montenegro, Turkey), by nature protection laws (Estonia, Hungary), or under other legal regulations (Germany - fundamental law, Ukraine - land code, Romania - governmental ordinance). But the understanding of the issue differs both in terms of kind of restriction (loss) to be reimbursed and in terms of a kind of compensation (financial or in the case of Iran and Ukraine also substitute plots of land). For example, Estonia stresses maintenance of key habitats, Bosnia and Herzegovina compensations for damage caused by forest enterprises to private forest owners, Romania restrictions imposed by management plans in forests with special protection functions, Slovenia limitation of usufruct rights generally etc. Poland and Japan emphasize importance of subsidies/incentives to forest owners for needed forestry activities. The Turkish Forestry Code provides for the support of people who directly depend on the forest e.g. in the form of supplying them with wood at lower prices for certain "public" purposes. The respondent from Slovenia is pointing out that normal multifunctional management of forests cannot be considered as a limitation.

4.5 How is the "public interest" defined in your legislation?

Bosnia/H

Forest and forest are goods of public interest; they are under special care and protection of FB&H and have to be used according to the Forest Law (F, Article No. 1)

Estonia

No response -

Georgia

- a) Participation of public organizations in the governance of the state forest fund;
- b) Forest use for resort, recreation, sport and other cultural and health improving purposes;
- c) Presence of citizens in the forest.

Germany

In Germany "public interests" is an "undetermined legal concept".

Hungary

Act on Forest says: "The maintenance and protection of forests serve the interests of all of society; their social services are due to all human beings, therefore forests should be managed only in harmony with the common interest." Both the forest and nature protection act raise the "public interest" question, but here is no clear description of it. Usually the preamble deals with this question as the quoted sentence from the Forestry Act demonstrates.

Iran

Through announcing forest to become national, then managing most of them by government since 1963.

Japan

Multiple function of forest is very important for the public.

Latvia

"Public interest" is not defined as term in legislation and there are no criteria for "public interest". Due to Civil Law, court resolutions usually set the restrictions on property utilization rights, or private will through testimony or agreement. Restrictions on property utilization rights are set by the Forest Act, the Law on Particularly Protected Nature territories, the Law on Environment Protection and the Law on Protected belts.

Lithuania

No definitions are available.

Poland

There is no definition of the "public interest" in Polish legislation. The "public interest" has to be established and specified with regard to the case of administrative proceedings. An administrative body must be the advocate of this interest, as it arises from the body's tasks and duties, but it also must balance public interest's demands and demands of other parties.

Romania

(Quest 1) the exact translation of "public interest" in Romanian is not used in the national forest legislation. However the meaning of "public interest" is reflected in forest legislation and practice by the use of the forest classification system according to the main function of a forest area is determined. According to Article 20 of the Forest Act, the forests are grouped in two functional groups, each of them including several sub-units (called functional categories). The forests from the first functional group ("protection forests") are partially or fully of public interest as they include forests with special

protection functions for the benefit of the public: e.g. water protection, soil protection, climate protection, protection of the localities of national interest, recreation forests, forests for the protection of the gene pools, natural monuments and reserves. "Protection forests" represent about half of the Romanian forests and are managed according to their functions. (Quest 2)

Serbia

Forests like goods of mutual interests, had to be conserved, restored and used in a way to: conserve and increase their values and mutual function, ensure long time production and protection along with permanent increase of increment and yield (Art. 2 Forestry Law 1991)

Slovakia

No definition in valid legislation available.

Slovenia

According to the constitution the usufruct right shall be exercised so that economic, social and ecological functions of the land are respected.

Turkey

Turkish forest legislation, particularly Forestry Code of 1956, does not have any specific definitions of public interests. But in reality, there exists about 8 million people living in and next to the forests and almost totally depend on forests to survive. So, the Forestry Administration tolerates those people when they collect woods, barks, forest seeds, bushes, and flowers to sell and to use in personnel necessity.

Ukraine

Free access to forests. (Quest. 1) According to the Land Code the use of property rights to land cannot be detrimental to 'public interest', to the environment and to the natural quality of land. According to the Forest Code Ukraine's forests is its national wealth and mainly perform ecological, aesthetic, educational and other public functions. (Quest 2)

Summary:

There is no explicit definition of "public interest" and no clear criteria for "public interest" in the legislation of the respondent countries. However, forest codes or other relevant legal documents often operate with this or similar terms (Bosnia and Herzegovina, Germany, Hungary, Serbia and Montenegro, Ukraine). For example in Hungary both the forest and nature protection act raise the "public interest", but there is no clear description of it. Naturally, the content of the term "public interest" differs from country to country according to the socioeconomic background and the prevailing priorities. The Slovenian constitution gives a quite general definition stating that "usufruct rights should be exercised so that economic, social and ecological functions of the land are respected". Some respondents mention the question of free access to forests (Germany, Ukraine). The Japanese concept stresses multiple functions of forests as important for public. Similar multifunctional approaches are implied from the answers of Germany, Georgia or Romania. In Romania the meaning of "public interest" is reflected in forest law and practice by using a forest classification system for the main functions. The Iranian concept emphasizes the role of the state in advocating public interests in forestry.

4.6 How does the legislation of your country address the forest management supervision from the environmental protection point of view?

Bosnia/H

According to the Forest Law, forest functions are prescribed as ecological, economical and social. (Article No. 2). Sustainable forest management assumes maintenance and improvement of long term

health and diversity of forest ecosystems in order to provide economical, ecological, social and cultural functions of forest. (Article No. 3) Forestry inspectors (federal, canton and border) are responsible for supervision of all prescriptions of this Law. (Articles No. 64 and 66) (F)

Czech Republic

The Ministry of Environment is made responsible by the Forest Act (Act No. 298/1995) for state supervision of forest management in the entire Czech Republic. The ministry supervises how bodies of state administration, jurist and natural persons observe the provisions of the Forest Act and related regulations. Carrying out of the duties of the state supervision in forest, the Ministry cooperates with the Czech Environmental Inspection authority, which has a special department of forest protection. Its mission is to prevent and examine offences concerning the functioning of forests as an important part of the environment.

Estonia

The Environmental Inspectorate is responsible for the supervision.

Georgia

It needs improvement.

Germany

The control of nature and landscape protection is in the portfolio of the Laender (§ 6 Federal Nature Protection Law). Forest management measures in compliance with the law and with a good professional practice are not classified as an intervention in nature and landscape (§ 18 Federal Nature Protection Law).

Hungary

In Hungary the nature protection authority endorses the ten years forest management plans.

Iran

Every kind of management of forests takes place as a “forest project” the basis of which is founded according to environmental protection through environmental impact assessment, also looking ahead in view of current condition.

Japan

We have a protection forest system and a forest planning scheme for such a purpose.

Latvia

State Forest Service, Inspection of Environment Protection.

Lithuania

Inspection of Environment Protection.

Poland

According to the Act on Forests sustainable forest management is running in accordance with forest management plans, with particular account taken of the following aims:

- 1) The conservation of forests and their favorable impact on climate, air, water, soil, living conditions for humans and their health, as well as of the balance of nature,
- 2) The protection of forests, especially those that are natural fragments of the country’s natural heritage, or those that are especially precious with regard to:

The preservation of biodiversity,

The preservation of the genetic resources of the forest,

Valuable features of the landscape,

Research needs,

3) The protection of soils and areas especially exposed to pollution or injury, or of special social importance.

The administration of state forests that are the property of the State Treasury is performed by the State Forests Holding of State Forests (with exception of state forests constituting part of national parks – administration of those forests is held by directors of national parks). Forests that are property of the State Treasury are under the supervision of the Minister of Environment. The supervision of forests that are not the property of the State Treasury is the duty of Heads of regions and Heads of districts.

Romania

Legislation addresses environmental issues quite well; however, legislation is not always fully and properly implemented.

Serbia/MN

SE's which manage national parks, within protection and improvement of natural national parks values, maintain forest management, protection, breeding, improvement and usage of hunting and fisheries fauna in this area (Art. 9, Law on natural parks 1993).

Slovakia

Through the system of state forestry administration as well as of state administrations in charge of environmental protection.

Slovenia

Integrative principle: In forest management plans ecological, social and economic functions of forests are balanced.

Turkey

Actually, forest legislation needs to be amended because it is old and does not cover current environmental issues. For example, Environmental Impact Statement is covered by Environmental Code, but it is not applied to forestry practices, particularly in the case of reforestation and harvesting activities. In contrast, the legislation has some regulations on multiple use and sustainable yield.

Ukraine

A state ecological expertise of projects related to forestry development objectives is provided for in Ukraine. (Quest. 1)

The national legislation provides for the fact that State bodies are engaged in environmental protection approval a number of regulations and norms on use and regeneration of forest resources. These bodies perform an ecological examination of projects concerning the establishment of forestry facilities. Forest monitoring is a component of the State environmental monitoring system. (Quest 2)

Summary:

Supervision over the forest management from the environmental protection point of view exists in various forms in most respondent countries. The main difference seems to be the allocation of responsibilities between forestry administration bodies (carrying out the supervision e.g. in Bosnia and Herzegovina) and nature protection administration bodies (carrying out the supervision e.g. in Estonia or Hungary). The combination of both systems is applied e.g. in the Czech Republic, Latvia, Poland or Slovakia. Some countries stress the role of forest management plans (Hungary, Poland, Slovenia, and Ukraine). Germany cites its Federal Nature Protection Law who states that forest management measures in compliance with the law and with a good professional practice are not classified as an intervention in nature and landscape. Romania emphasizes the need for further implementation of provisions set by law (law enforcement). Nigeria pays attention to the fight against illegal fellings and forest fires. Iran and Turkey mention the concept of Environmental Impact Assessment, which, however, in Turkey does not cover felling and reforestation activities.

5. How does the state support the foundation of forest owners associations, or generally the grouping of forest owners?

5.1 Distribution of forest holdings (%) according to the size classes

<i>Size of holding</i>	< 1 ha	1-50 ha	50-100 ha	100 - 500 ha	> 500 ha
Country					
Bosna Herzegovina	(most < 1 ha)	*	*	*	*
Czechia	*	*	*	*	*
Estonia	n. a.	n. a.	n. a.	n. a.	n. a.
Germany	19,3	78,1	1,5	0,5	0,6
Hungary	*	*	*	*	*
Iran	*	*	*	*	100
Japan	8,3	69,1	7,1	9,1	6,5
Latvia	n. a. (10)	99,1	0,9	*	*
Lithuania	30,2	68,4	1,4	*	*
Poland	62,6	37,4	*	*	State Forests
Romania	70	30	*	*	*
Serbia Montenegro	*	*	*	*	*
Slovakia	n. a.	3	3	14	80
Slovenia	80 (< 3 ha)	19,8	0,2	*	*
Turkey	*	7,3	9,3	44,5	38,9
Ukraine	*	100	*	*	*

*) no response

5.2 What is the share of associated forest owners e.g. in forest cooperatives of the total number of private forest owners

Country	% of forest area	% of non-state forest area	% of total number
Bosna Herzegovina	n. a.	n. a.	n. a.
Czechia	*	*	*
Estonia	1	*	1
Germany	30	(46)	over 90
Hungary	12,5	n. a.	15,4
Iran	100	*	100
Japan	84,2	*	58,9
Latvia	*	*	26
Lithuania	*	*	*
Poland	5,5	n. a.	n. a.
Romania	n. a.	n. a.	n. a.
Serbia Montenegro	*	*	*
Slovakia	n. a.	n. a.	n. a.
Slovenia	*	*	*
Turkey	*	*	382
Ukraine	n. a.	n. a.	n. a.

*) no response

5.3 Incentives

What is the total annual amount of incentives (in EUR/year) paid by the Government to forest owners to promote their association (creation of larger forest holdings)? Please provide the recalculation in EUR *per* ha of private forests and forests of associations.

Country	Annual amount	<i>per ha of private forests</i>	
	Euro	Private	Associated
Bosna Hercegovina	n. a.	n. a.	n. a.
Czechia	n. a.	n. a.	n. a.
Estonia	64.000	0,09	9
Germany	2,0 Mio.	0,40	0,62
Hungary	n. a.	n. a.	n. a.
Iran	2,79 Mio.	n. a.	0,8
Japan	n. a.	n. a.	n. a.
Latvia	*	*	*
Lithuania	*	*	*
Poland	*	*	*
Romania	*	*	*
Serbia Montenegro	n. a.	1,36	n. a.
Slovakia	*	*	*
Slovenia	*	*	*
Turkey	*	*	*
Ukraine	*	*	*

*) no response

5.4 Forest owners associations

Country	Association name	E-mail address
Bosna Hercegovina	Any kind of Forest Owners Association does not exist in B&H	
Czechia	Association of Municipal and Private Forest Owners (SVOL) K Silu 1980, 393 01 Pelhrimov Tel/Fax: +420 565 323 421	info@svol.cz svol@mshrimov.cz jansky@mmp.plzen-city.cz
Estonia	Estonian Union of Private Forest Owners Associations	Toomas.Lemming@erametsaliit.ee www.erametsaliit.ee
Germany	Arbeitsgemeinschaft Deutscher Waldbesitzerverbände (AGDW), (Waldbesitzerverbände der Länder)	waldbesitzerverbaende@t-online.de ,
Hungary	Federation of Private Forest Owners and Sylviculturists in Hungary (MEGOSZ) 1021. Budapest, Budakeszi út. 91 Tel: 06-1/391-4290, Fax: 391-4299	megosz@mail.datanet.hu
Iran	An association of forest owners is being forming under title of “forest projects & wood industries association” that it hasn’t been completed yet.	
Japan	National Federation of Forest Owners’ Cooperative Associations (www.zenmori.org/)	
Latvia	Co-operative Society “Meža apsaimniekotāju asociācija”(Forest Managers Association) Rīgas iela 113, Salaspils, LV-2169, Phone: 7980056, Fax: 7980056	
Lithuania	Yes	
Poland	Does not exist	

Romania	Association of Private Forest Owners from Romania (APPR): Str. Closca, Nr.7a, Bl.2, Ap.7, Brasov-2200, Tel./fax: +40 268 411420, Mobile: +40 723 898790	
Serbia Montenegro	Does not exist	
Slovakia	Association of Municipal Forest Enterprises Association of Church Forest Enterprises Regional Association of Non-state Forest Owners of Pohronsko-novohradský Region The Union of Regional Associations of Non-state Forest Owners in Slovakia	zolsr@nexta.sk udlsr@nexta.sk
Slovenia	Kmetijsko-gozdarska zbornica Slovenije Chamber of Agriculture and Forestry http://www.kgzs.si	
Turkey	Does not exist	
Ukraine	Does not exist	

6. Have you some more topics for discussion?

Country	Have you any topics, which should be still included into the discussion?
Czechia	<ul style="list-style-type: none"> • It would be interesting to know how your working group sees the future of forestry legislation. Is it a higher degree of regulatory legislative measures of state? • Or, on the contrary, the lowering of regulation and improvement of voluntary steps, which are positively motivated, e.g. financially or through training and extension services offered?
Iran	<ul style="list-style-type: none"> • How long have connection existed between your country with some European countries according to forest legislation? And how much it does influence on promoting your forest law. • What is the need to make an association between countries whose forest legislation are close to each other or have long connection?
Poland	<ul style="list-style-type: none"> • Impact of the Pan-European Process (MCPFE) on the country's forest policy and forest legislation, • Economic and social aspects of the multifunctional and sustainable development model of forestry
Serbia Montenegro	<ul style="list-style-type: none"> • Possibility to cooperate in process of harmonization of legislation with EU, namely education of expert staff for mention issues.
Turkey	<ul style="list-style-type: none"> • Out of forest wooded lands such as <i>Poplar</i> plants in agricultural areas. • Article 2/B of Forest Legislation, meaning that it is reasonable whether taking out of forests such areas as losing forest characters or not. • Almost totally state ownership is reasonable or not • Solutions for public ownership dominating to Turkish forestry.

Act on Forests and Amendments to some Acts (the Forest Act)
dated 3 November 1995

CHAPTER ONE
Section One - Initial Provisions
Part One

Art. 1 - Purpose of the Act

The purpose of this Act is to determine conditions for the preservation, tending and regeneration of forests as national riches forming an irreplaceable part of the environment, to enable the fulfillment of all their functions and to support sustainable forestry.

Art. 2 - Definition of Terms

For the purposes of this Act, the following terms shall have the following meaning:

- a) forests shall mean forest stand with its environment and land designated for the fulfillment of forest functions,
- b) forest functions shall mean contributions towards the general well-being of society conditional on the existence of forests, which consist of wood-producing and non-wood-producing functions,
- c) forest stand shall mean trees and shrubs of forest tree species which, in their particular environment, fulfil forest functions,
- d) forestry shall mean regeneration, protection, tending and felling of forest stand and other activities securing the fulfillment of forest functions,
- e) forest protection shall mean activities aimed at the reduction of the influence of harmful factors, protective measures against harmful factors and reduction of their impact,
- f) harmful factors shall mean harmful organisms, unfavorable weather conditions, emissions or chemical factors agents causing forest damage,
- g) harmful organisms shall mean agents causing forest stand diseases and plant or animal pests of forest stands,
- h) forest regeneration shall mean a set of measures resulting in the development of a new generation of forest stand,
- i) afforestation shall mean the establishment of forest stand,
- j) establishing forest stand shall mean reaching such a state of forest stand where intensive protection is no longer required and the number of individual plants and their distribution throughout the forested area, as well as the composition of the forest tree species, create all the prerequisites required for the establishment of a site of suitable forest stand,
- k) forest tending shall mean measures affecting the composition and spatial arrangement, the growth, development, state of health, resistance and quality of forest stand aimed at securing the fulfillment of forest functions; main felling shall not be considered as tending,
- l) planned intermediate felling shall mean felling carried out for the purposes of tending forest stand,
- m) planned main felling shall mean felling carried out for the purpose of stand regeneration, or selection of individual trees in the stand designated for regeneration,
- n) incidental felling shall mean felling carried out for the purpose of processing of dry, uprooted, diseased or damaged trees,
- o) extraordinary felling shall mean felling subject to permission or decision of state forest administration bodies,
- p) natural forest areas shall mean continuous areas with comparable conditions for forest growth,
- q) management sets shall mean units used to differentiate between management methods in forests set out within individual natural forest areas and based on their function, natural conditions and state of forest stand,
- r) stand shall mean the basic unit of spatial arrangement of the forest identifiable in the terrain and shown on a forestry map.

Art. 3 - Land Designated for the Fulfillment of Forest Functions

1) The following land shall be designated for the fulfillment of forest functions:

- a) land with forest stand and areas where forest stand was removed for the purposes of regeneration, forest rides and unpaved forest roads if these are not wider than 4 m, and land where forest stand was removed temporarily on the basis of a decision of a state forest administration body in accordance with Art. 13 (1) of this Act (hereinafter "forest land"),
- b) paved forest roads, small water areas, and other areas and land above the upper boundary of wood vegetation with the exception of built-up land and access roads thereto and woodland pastures and fields for wild animals unless such land is part of the agricultural land fund and provided that it is connected to the forest or is used in forestry (hereinafter "other land"). State forest administration bodies may order such land to be marked as part of land designated for the fulfillment of forest functions.
- c) Nurseries and plantations of forest trees established on land which is not designated for the fulfillment of forest functions shall not be considered land designated for the fulfillment of forest functions, unless decided otherwise by a state forest administration body at the suggestion of the owner of the land.

- d) Should there be any doubts as regards the status of land as designated for the fulfillment of forest functions, the matter shall be resolved by a state forest administration body.
- e) Land not listed in paragraph 1 may be declared as land designated for the fulfillment of forest functions by the decision of a state forest administration body at the suggestion of the owner of the land or with his consent. Provisions of special regulations¹ shall remain unaffected.

Art. 4 - Management of Forests in the Ownership of the State

As for forests in the ownership of the state (hereinafter "state forests"), the rights and duties of the owner of the forest under this Act shall apply to the legal entity which has been entrusted with the management of such forests, unless provided otherwise by this Act. Legal acts required for the management of forests, in particular agreements on the transfer of the right to manage or the transfer of ownership, and lease or loan agreements with the exception of agreements regulating the lease or loan of land designated for the fulfillment of forest functions where a state forest administration body has decided to restrict or temporarily recall the fulfillment of forest functions (Art. 13(1)), shall be valid only with the previous consent of the Ministry of Agriculture (hereinafter the "Ministry"). Provisions of special regulations shall remain unaffected.

Art. 5 - Prohibition of Lease and Sub-Lease

- 1) It is prohibited to let or sublet a state forest for the purposes of forestry.
- 2) It is prohibited to sublet a forest unless provided otherwise in the lease agreement.

Part Two Classification of Forests

Art. 6 - Forest Classes

Forests shall be divided into three classes according to their prevailing functions, in particular into protection forests, special purpose forests and commercial forests.

Art. 7 - Protection Forests

- 1) The following forests shall be included in the class of protection forests:
 - a) forests at exceptionally unfavorable sites (debris, [stone seas], sharp slopes, ravines, unstable sediment or sand, peatland, spoil banks or spoil heaps etc.),
 - b) high-elevation forests below the boundary or wooded vegetation protecting forests situated lower and forests on exposed ridges,
 - c) forests in the dwarf pine vegetation zone.
- 2) Forests shall be included in the protection forest class on the basis of the decision of a state forest administration body made at the suggestion of the owner of the forest or on its own initiative.

Art. 8 - Special Purpose Forests

- 1) Special purpose forests are forests, which are not protection forests and are situated: in zones of hygienic protection of water resources of 1st degree,¹
 - a) in protection zones of natural healing and table mineral waters,²
 - b) on the territory of national parks and national nature reserves.³
- 2) The class of special purpose forests can be also applied to forests in relation to which a general interest in the improvement and protection of the environment or any other valid interest in the fulfillment of non-wood-producing functions of the forest is superior to the wood-producing functions. These include the following forests:
 - c) forests in the first zones of protection country areas and forests in natural reserves and at sights of natural interest,⁵
 - d) spa forests,
 - e) suburban forests and other forests with an increased recreation role,
 - f) forests serving the purposes of forestry research and forestry education,
 - g) forests with increased functions in the area of soil protection, water protection, climate or landscape formation,
 - h) forests necessary for the preservation of biological diversity,
 - i) forests in recognized hunting areas and separate pheasantries,⁴ and
 - j) forests where important public interest calls for a different method of management.

¹ Guidelines of the Ministry of Health of the Czech Republic On the Basic Hygienic Principles for the Determination, Definition and Use of Areas of Protection of Water Resources Intended for Mass Supply of Potable Water and Water for Industrial Purposes and for the Establishment of Water Reservoirs, ref. HEM324.2-1.9.1978 dated 26 July 1979, registered under No. 20/1979 Coll.

² Art. 48 of Act No. 20/1966 Coll. On Public Healthcare as amended in later versions; Art. 24 of the decree of the Ministry of Health of the Czech Social Republic No. 26/1972 Coll. On the Protection and Development of Natural Curative Spas and Natural Healing Sources.

³ Act of the Czech National Council No. 114/1992 Coll. On the Protection of Nature and Landscape as amended in later versions, Act of the Czech National Council No. 20/1987 Coll. On National Heritage Protection as amended in later versions.

⁴ Act No. 23/1962 Coll. On Game Keeping and Hunting as amended in later versions.

3) Forests shall be included in the special purpose forest class on the basis of the decision of a state forest administration body made at the suggestion of the owner of the forest or on its own initiative.

Art. 9 - Production Forests

Production forests are forests which are not included in the class of protection forests or special purpose forests.

Art. 10 - Forests Affected by Emissions

- 1) Forests affected by emissions are ranked in one of four danger zones. The danger zones are defined by a special regulation of the Ministry.
- 2) Exemption from real estate tax shall apply to production forests affected by emissions ranking in the first two highest danger zones as well as to forests referred to in Art. 7 and 8.

Section Two - Forest Protection

Part One

Art. 11 - Basic Duties

- 1) Every individual must behave in such a way as to avoid any danger or damage to the forests or sites and equipment used for management purposes in the forests.
- 2) While carrying out forestry activities, a forest owner shall be obliged to endeavor not to harm the interests of other forest owners and to ensure that the functions of the forests are preserved (i.e. fulfilled in a consistent and stable manner) and that the gene pool of forest tree species is preserved.
- 3) A forest owner shall be entitled to compensation of any damage resulting from any restrictions of forestry activities by a state administration body which resolved to impose such restrictions. The state administration body may decide that such compensation be covered by the persons whose interests were served by the decision to impose such restrictions.
- 4) Forest land must not be used by anybody for other purposes unless provided otherwise by this Act.

Art. 12 - Record-keeping and allotment of plots of land

- 1) In order to keep record of plots of land assigned for the fulfillment of forest functions in their respective regions, state forest administration bodies shall be entitled to cost-free use of the data of the Register of Real Estate Property.⁵
- 2) Owners of forest and other land (Art. 3 (1)) shall be obliged to notify the relevant state forest administration body of any lease, sub-lease or loan of forest or other land within 30 days of the conclusion of the relevant agreement if the duration of such agreements is or should be less than five years. Such an agreement shall be valid only if concluded in writing.
- 3) Division of plots of forest land, where the area of one part of the divided land falls below one hectare, shall be subject to the consent of the relevant state forest administration body. The state forest administration body shall not give such a consent should the division result in plots of land of unsuitable shape or size which would not allow the proper conduct of forestry activities.

Part Two

Protection of land assigned for the fulfillment of forest functions

Art. 13 - Contents and basic duties

- 1) All land assigned for the fulfillment of forest functions must be managed in an efficient manner in accordance with this Act. It is prohibited to use it for any other purposes. Exemptions may be granted by state forest administration bodies on the basis of applications of land owners or in cases where such exemptions are in the public interest.
- 2) While using land assigned for the fulfillment of forest functions for other purposes, the following conditions shall be observed:
- 3) priority must be given to land which is less significant from the point of view of the fulfillment of forest functions and it must be ensured that the minimum interference with forestry activities and the fulfillment of forest functions occurs through such other use,
- 4) care must be taken to avoid any division of the forest which may be unsuitable from the point of view of protection of the forest and danger to any adjacent forests,
- 5) the network of forest roads, reclamation and torrent control in forests and any other mechanisms/implements??? used in forestry must not be interfered with; if their functions need to be restricted, their original condition has to be restored or, should this not be possible, alternative solution must be provided,
- 6) roads and rides in forests must be established in such a way as to avoid any increase in the danger to the forest, in particular any danger caused by wind and water erosion.
- 7) Legal entities and individuals carrying out construction, felling and industrial activities are also obliged to:

⁵ Act of the Czech National Council No. 344/1992 Coll. On the Register of Real Estate Property of the Czech Republic (the Property Register Act).

- 8) carry out such work in such a way as to reduce to the minimum any damage to the land and forest stand, and take all necessary measures to put right any damage without delay,
- 9) store waste to be cleared away in the felled area or, should this not be possible or justified from the economic point of view, store such waste mainly on barren land or on non-forest land designated for such purposes,
- 10) continuously create conditions for subsequent reclamation of the freed land, carry out reclamation of the affected land immediately following the conclusion of the use of such land for other purposes so that such land can be returned for the fulfillment of forest functions,
- 11) use suitable technical tools, technologies and biodegradable hydraulic liquids, take efficient measures to prevent emissions of matters damaging to the forests and to the environment.
- 12) While carrying out geological and hydro-geological research, investors of such works shall be obliged to observe the provisions of Art. 2 and 3, and if such activities are not subject to prior issue of a relevant decision, to notify the relevant state forest administration body of the first degree of such an activity in advance and submit a written consent of the owner of the forest.

Art. 14 - Processing and consideration of draft documentation

- 1) Persons preparing or commissioning the preparation of site plans⁶ and proposals demarcating felling areas⁷, and those preparing building documentation shall be obliged to take forest preservation into consideration, while following the provisions of this Act. They shall be obliged to propose and justify solutions which shall be most suitable from the point of view of forest preservation, environmental protection and other public interests; in addition, they shall be obliged to carry out an analysis of the expected impacts of the proposed solution, to propose an alternative solution, a method of subsequent reclamation and the arrangement of the area following the completion of the construction activities.
- 2) Should any proceedings under any special regulations⁸ affect any interests protected by this Act, the building authority or any other state administrative body shall make a decision only with the consent of the relevant state forest administration body whose consent may be subject to certain conditions. Such consent shall be required also for any land situated within 50 metres from the edge of the forest.
- 3) Any person intending to construct a pipe line, where permanent or temporary withdrawal or restriction under Art. 15 (1) is envisaged, shall be obliged to obtain information about the conditions for directing a route through forest land affected by the intended construction works from the relevant state forest administration body prior to the preparation of any material required for the issue of a site permission.

Part Three

Withdrawal of plots land and restriction of their use

Art. 15 - Basic Principles

- 1) Withdrawal of plots of land designated for the fulfillment of forest functions (hereinafter the "withdrawal") means the release of such land for other use. Restriction of use of plots of land designated for the fulfillment of forest functions (hereinafter "restriction") means a situation where some forest functions cannot be fulfilled on the affected plot of land to the normal extent. Withdrawal or restriction can be permanent or temporary. Permanent withdrawal or restriction means a permanent change in the use of the land, while permanent withdrawal or restriction means that the land is released for other purposes for a period of time set out in the relevant decision (Art. 13 (1)).
- 2) Withdrawal or restriction granted for the purposes of construction of recreation facilities on land designated for the fulfillment of forest functions must comply with the approved site planning documentation.⁸ In protection forests and special purpose forests, new buildings must not interfere with the fulfillment of the functions which resulted in the inclusion of such forests in the class of protection forests or special purpose forests.
- 3) The following can be placed on plots of land designated for the fulfillment of forest functions without withdrawal:
 - a) signals, stabilization stones and other marks for surveying purposes, poles of overhead electric lines and entrance shafts of underground electric mains, provided that no more than 30m² of land is affected in each individual case,
 - b) pumping stations, bore holes and wells, overhead or underground electric mains stations, equipment and stations for the purposes of monitoring of the environment and air shafts, provided that no more than 55m² of land is affected in each individual case.

⁶ Decree of the Federal Ministry for Technical and Investment Development No. 84/1976 Coll, On Site Documentation as amended in later versions.

⁷ Act No. 44/1988 Coll. On the Protection and Use of the Mineral Riches (Mining Act) as amended in later versions.

⁸ For example, Act No. 50/1976 Coll. On Site Planning and Construction Rules (Construction Act) as amended in later versions, or Act No. 44/1988 Coll.

Art. 16 - Proceedings to grant withdrawal or restriction status

- 1) The application for withdrawal or restriction is submitted to the relevant state forest administration body by the person in whose favor such withdrawal or restrictions is to be affected (hereinafter the "applicant"). Decision on withdrawal or restriction shall be made by the state forest administration body in whose area of competence the land in question or a major part thereof is situated.
- 2) The state forest administration body shall include the following information in its decision on withdrawal or restriction:
 - a) details of the forest land affected by the decision,
 - b) the intention served by the decision,
 - c) period of time granted for temporary withdrawal or restriction, and the approval of the reclamation plan, should this be required,
 - d) method and deadline of the re-forestation of the land if the land in question is to be returned for the fulfillment of forest functions following the termination of the period of use of the land for other purposes,
 - e) in the decision on withdrawal due to extensive construction works or extraction of minerals, deadlines of gradual clearance of the withdrawn areas so that the land was used for the fulfillment of forest functions up to the time of the actual commencement of use for other purposes,
 - f) any other conditions set out in the opinion of the relevant state administration bodies, or conditions called for in the interest of the protection of land designated for the fulfillment of forest functions, forest stand or equipment serving the purposes of forestry activities.
- 3) Should, in accordance with special regulations, construction or other permission be required for further use of forest land withdrawn from the fulfillment of forest functions or subject to restriction of the fulfillment of forest functions, clearance of such land may not be commenced until such a permission comes into force.
- 4) The relevant state forest administration body may, at the suggestion of the applicant or the owner of the land or on its own initiative, change or recall the decision on withdrawal or restriction, should this be required in the public interest or should the land cease to serve the purposes for which such a decision was issued.
- 5) Unless the relevant state forest administration body decides otherwise, the decision on withdrawal or restriction shall cease to be valid and the land in question shall be returned for the fulfillment of forest functions:
 - a) upon the expiry of the duration of the decision,
 - b) if the land is not used for the purposes for which the decision was issued within two years from the time when the decision came into force, the owner of the forest shall be obliged to notify the relevant state forest administration body, which issued the decision, of this; the relevant state forest administration body shall notify the other parties to the proceedings.
- 6) The Ministry shall set out the particulars of an application for withdrawal or restriction and details of the protection of land designated for the fulfillment of forest functions in a special regulation.

Part Four
Withdrawal Fee

Art. 17

- 1) The applicant who was granted permanent or temporary withdrawal, shall be obliged to pay a withdrawal fee (hereinafter the "fee"). The amount of the fee shall be determined by the relevant state forest administration body in accordance with the schedule to this Act in its decision issued according to Art. 13 (1).
- 2) The fee shall not be charged should the withdrawal be granted for the following purposes:
 - a) construction of a facilities serving the purposes of forestry activities,
 - b) construction of facilities and installations required for sewage treatment,
 - c) construction of facilities and equipment required for collection and production of potable water.
- 3) The body referred to in paragraph 1 shall send a counterpart of the valid decision to the relevant financial authority⁹ within 15 days from the date on which the decision came into force. The method and deadlines of transfer of the funds obtained as fees to the recipients of such fees under paragraph 4 shall be determined by a special regulation.¹⁰
- 4) 40 per cent of the fee shall be paid to the municipality in whose cadastral area the withdrawal in question occurred, and 60 per cent shall be received by the State Fund for the Environment.¹¹ The part of the fee received by the municipality may be used only for the purposes of improvement of the environment in the municipality or for forest preservation.
- 5) The payment of the fee does not affect the obligation of the applicant to compensate the owner of the forest for any damages incurred.

⁹ Act of the Czech National Council no. 531/1990 Coll. On Regional Financial Authorities as amended in later versions, Act of the Czech National Council no. 337/1992 Coll. on the administration of taxes and other levies as amended in later versions.

¹⁰ Art. 11 of the Decree of the Ministry of Finance no. 25/1994 Coll. On the Method of Recording Taxes and Transfer of Taxes to Their Recipients, Art. 96(a) of the Act of the Czech National Council No. 337/1992 Coll.

¹¹ Act of the Czech National Council no. 388/1991 Coll. On the State Fund for the Environment of the Czech Republic as amended in later versions.

- 6) Prepaid fees shall not be returned in cases referred to in Art. 16(5)(b).

Art. 18 - Maturity of the Fee

- 1) The fee for permanent withdrawal is paid in a lump sum within thirty days from the day when the decision on withdrawal comes into force. The fee for temporary withdrawal is paid annually according to the rate set out for the first installment, no later than the end of the respective calendar year of the withdrawal. If the withdrawal occurs or commences during the course of a calendar year, the fee shall be calculated as one twelfth part of the annual sum for each month including the month during the withdrawal occurred.
- 2) In exceptional cases, the relevant financial authority¹¹ may, at the request of the applicant, decide to grant deferment of payment of the fee, or payment of fee in installments.
- 3) If the fee is not paid in full by its due date, the applicant shall pay a fine of 0.1% of the sum due for each day of default starting on the day following the due date up to the day of payment inclusive. The applicant shall be notified of the amount of the fine by the relevant financial authority by way of payment assessment. The applicant may appeal against the payment assessment within 30 days from its service. The fine shall not be charged, if the aggregate sum does not exceed CZK 100.
- 4) Interest or fines shall be transferred by the relevant financial authority to the recipients of the fee according to Art. 17(4).

Section Three - General Use of the Forest

Art. 19 - Use of the Forest

- 1) Every individual shall be entitled to enter the forest at their own risk, and to collect for their own needs any forest products and dry brushwood lying on the ground. While doing so, they shall be obliged not to damage the forest, not to interfere with the forest environment and to follow the instructions of the owner or tenant of the forest and their staff.
- 2) Beekeepers may, with the consent of the owner of the forest and in the interest of the promotion of ecological balance, pollination of plants, use of honeydew and improvement of the production of seed of forest tree species, put their bee swarms on forest land provided that they meet their obligations following from the second sentence of paragraph 1.
- 3) At the suggestion of the owner of the forest or on its own initiative, the relevant state forest administration body may, for forest protection reasons or in the interest of health and safety of the public, decide to enforce temporary restriction of entry to the forest or to close the forest. However, it may do so for a maximum period of three months. The same may be enforced by a generally binding notice of the district council.¹² The original period of duration may be extended in the same way by a maximum period of three months. Closures of the forest or any other restrictions of the use of the forest enforced by special regulations or declared in accordance therewith shall remain unaffected. Entry to the forests which are essential for the needs of the defense of the state (hereinafter "military forests") is regulated by special regulations.¹³

Art. 20 - Prohibition of Certain Activities in the Forests

- 1) The following shall be prohibited in the forests:
 - a) to disturb peace and quiet,
 - b) to carry out landscaping works, disturb ground cover, build paths, fences and other facilities,
 - c) to lift seedlings and transplants of trees and bushes of forest tree species,
 - d) to fell or damage trees and bushes,
 - e) to collect seeds of forest tree species, mistletoe and [ochmet],
 - f) to collect fruit products in a manner damaging the forest,
 - g) to drive and park motor vehicles,
 - h) to enter areas enclosed by fences or marked as no entry areas,
 - i) to enter areas of forest stand where felling, handling or transport of timber is under way,
 - j) to cycle, ride, ski and sledge away from roads and marked routes,
 - k) to smoke, start or keep open fires and camp outside designated areas,
 - l) to dump burning or smoldering objects,
 - m) to disturb the water regime and to collect bedding,
 - n) to graze livestock, enable runs of livestock and punching of livestock through forest stand,
 - o) to litter the forest with waste and refuse.
- 2) It is prohibited to start and keep open fires also within 50 metres from the edge of the forest.

¹² Act of the Czech National Council no. 425/1990 Coll. On District Councils, Their Competence and Some Other Related Measures as amended in later versions.

¹³ Act. No. 169/1949 Coll. On Military Forests as amended in later versions.

Act no. 40/1961 Coll. On the Defence of the Czechoslovak Socialist Republic as amended in later versions.

- 3) Restrictions referred to in paragraphs 1 and 2 shall not apply to forestry activities; restrictions referred to in paragraph 1(l)-(o) shall apply also to the owner or the tenant of the forest or any other person using the forest on any other legal terms.
- 4) The owner may grant an exemption from the restrictions referred to in paragraph 1(a)-(k). Should such an exemption interfere with the rights of other owners, the relevant decision shall be made by the relevant state forest administration body.
- 5) Organized or mass sporting events may be held in the forest on the basis of a notice submitted to the relevant state forest administration body. The notice, submitted by the organizer of the event no later than thirty days prior to the date of the event, shall include the place and date of the event, expected number of attendees, organizational arrangements and the consent of the owner of the forest. The relevant state forest administration body may set out additional conditions within 15 days from the service of the notice. The provisions of paragraph 1(g) and (j) and paragraph 4 remain unaffected. The prohibition to drive and park motor vehicles shall not apply to the staff members of state forest administration bodies in the area of their competence during the execution of their duties in accordance with this Act and to any individuals who carry out activities permitted by special regulations.
- 6) Restrictions referred to in paragraph 1(a), (h) and (j), and, with the consent of the owner of the forest, also (b) and (g), shall not apply to application of hunting rights in accordance with special regulations.

Art. 21 - Compensation for Damages Caused to the Forest

- 1) Legal entities and individuals who, in their activities, use or produce matters damaging the forest, and put the forest in danger and damage the forest, shall be obliged to take measures to avoid or reduce their harmful impact.
- 2) Should construction works result in the disruption of the continuity of self-contained forest areas, forest roads or other facilities serving forestry purposes, the person who caused such disruption shall be obliged to provide the person, who thus suffered any damage, compensation for any losses and increased operating expenses incurred. The provisions on ecological damage under special regulations shall remain unaffected.
- 3) Should any forest stand be felled in relation to construction works, the investor shall be obliged to pay the sum which the owner of the forest would have obtained through due forest management if the forest stand had not been felled early, after the deduction of the sum which the owner may have obtained for timber from the liquidated forest stand.
- 4) After an agreement with the Ministry of Finance, the Ministry shall set out the method of calculation of the amount of damage caused to the forest by way of special regulation.

Art. 22 - Safety of Persons and Property

- 1) Owners of real estate or investors in buildings or other facilities shall be obliged to take, at their own expenses, all necessary measures to protect their land and buildings or facilities under constructions against damage caused, in particular, by land slide, falling stones, falling trees or parts thereof, protruding branches and roots, shading and avalanches coming from land designated for the fulfillment of forest functions; they shall be entitled to carry out such measures also on land designated for the fulfillment of forest functions. The extent and method of implementation of safety measures shall be set out by the relevant state forest administration body, unless the issue falls in the competence of another state administration body in accordance with special regulations.¹⁴ The owner of the land designated for the fulfillment of forest functions shall be obliged to tolerate the implementation of such measures.
- 2) Should the safety of persons and property require so, apart from the measures referred to in paragraph 1, any changes in the method of forest management or any restrictions to the use of the land designated for the fulfillment of forest functions, the relevant state forest administration body shall decide on further measures and determine who is to carry the related costs and who is to compensate the owner of the forest for any possible damage. Provisions of special regulations shall remain unaffected.¹⁵

Section Four - Preconditions of Sustainable Forestry

Part One

Differentiation of Management Methods

Art. 23 - Regional Plans of Forest Development

- 1) Regional plans of forest development are methodological tools of the state forest policy and recommend principles of forest management. The preparation of regional plans of forest development is commissioned and draft regional plans of

¹⁴ For example, Act No. 50/1976 Coll. On Waters (the Water Act) as amended in later versions, Act No. 111/1994 Coll. On Road Transport as amended in later versions.

¹⁵ For example, Act No. 266/1994 Coll. On Railways.

forest development are approved by the Ministry. The approval of regional plans of forest development is subject to a binding position of the central body of the state administration authority for the environmental protection on the introduction of geographically alien forest tree species.

- 2) Expenses sensibly used for the preparation of regional plans of forest development shall be borne by the state.
- 3) General regulations on administrative proceedings shall not apply to the approval of regional plans of forest development.
- 4) Details of the preparation of regional plans of forest development shall be set out by the Ministry by way of a legal regulation.

Part Two Forest Management

Art. 24 - Forest Management Plans

- 1) Forest management plans (hereinafter the "plans") are instruments of the owner of the forest and are prepared, as a rule, for a period of 10 years.
- 2) The plans include binding provisions and provisions of recommendation. Binding provisions of the plan are the maximum aggregate volume of felled timber and the minimum share of soil-improving and reinforcing species for stand regeneration. The owner of the forest shall be entitled to partial reimbursement by the state of any increased costs of planting the minimum share of soil-improving and reinforcing species. The rules for the promotion of planting of such species shall be determined by the Ministry by way of a legal regulation. With regard to state forests and forests in the ownership of municipalities, the minimum area of tending activities in stand of under 40 years of age shall also be a binding provision.
- 3) Legal entities entrusted with the management of state forests and other legal entities and individuals who own over 50 hectares of forests in the area of competence of the approving state forest administration body (Art. 27) shall be obliged to arrange the preparation of the plans.
Legal entities and individuals who own less than 50 hectares of forest may also carry out forestry activities according to a plan.
- 4) One plan may be prepared for forests of a maximum area of twenty thousand hectares.
- 5) Legal entities and individuals, whose plans have been approved, shall be obliged to comply with the binding provisions of such plans (paragraph 2).

Art. 25 - Forest Management Guidelines

- 1) To enable the establishment of the state of the forests and the execution of state administration, forest management guidelines (hereinafter the "guidelines") shall be prepared for forests of an area under 50 hectares in the ownership of individuals or legal entities if no plans are prepared for such forests (Art. 24(3)). Guidelines are prepared, as a rule, for a period of ten years, and remain valid in the specified area for the same period of time. The preparation of the guidelines is commissioned by the relevant state forest administration body.
- 2) The relevant state forest administration body shall declare its intention to commission the preparation of the guidelines by way of a generally binding notice. Individuals and legal entities who own forests of an area under 50 hectares (paragraph 1) shall be entitled to notify the relevant state forest administration body of their management intentions and requirements for the preparation of the guidelines within the period of time specified by the forest administration body.
- 3) Should an owner of a forest of an area over 3 hectares wish to use the forest management guidelines and accept such guidelines by way of a document evidencing acceptance, the maximum volume of felled timber, which may not be exceeded, and the share of soil-improving and reinforcing species for stand regeneration shall become binding for such a forest owner. Should an owner of a forest of an area under 3 hectares wish to use the forest management guidelines and accept such guidelines by way of a document evidencing acceptance, the maximum volume of felled timber, which may not be exceeded, shall become binding for such a forest owner. Provisions of Art. 24(2) shall apply accordingly.
- 4) Each forest owner shall receive the guidelines applicable to his forest from the relevant state forest administration body free of charge.
- 5) The Ministry shall determine the details of the commissioning, preparation and particulars of the guidelines, amendments to the guidelines, method of specification of binding provisions and method of accepting the guidelines by the forest owner by way of a legal regulation.

Art. 26 - Preparation of plans and guidelines

- 1) Plans and guidelines may be prepared only by legal entities or individuals who hold a license for such activities granted by the Ministry in accordance with Section Six of this Act.
- 2) Expenses for the preparation of plans shall be borne by the forest owner; expenses for the preparation of guidelines shall be born by the state.
- 3) Legal entities and individuals whose rights and legally protected interests may be affected, and state forest administration bodies may submit their comments and requirements with respect to the preparation of plans or guidelines no later than within the deadline specified by the approving state forest administration body. The provisions of Art. 25(2) shall remain unaffected.

Art. 27 - Approval of and amendments to plans

- 1) A forest owner, who is obliged to carry out forestry activities according to a plan (Art. 24(3)), shall be obliged to submit two counterparts of a draft plan for the approval of the relevant state forest administration body no later than 60 days following the expiry of the duration of the previous plan. The relevant state forest administration body shall approve the plan provided that the plan does not violate this Act and any other legal regulations.¹⁶ One counterpart of the approved plan shall be kept by the relevant state forest administration body which shall bear any expenses arising from the obtaining of one copy.
- 2) If continuous forests of one owner are situated in the area of competence of two or more state forest administration bodies, the plan shall be approved by the state forest administration body whose area of competence includes the largest part of the forest property.
- 3) If the relevant state forest administration body does not approve the submitted plan, the forest owner shall be obliged to submit an amended draft plan within the period of time specified by the relevant state forest administration body, or to submit written objections to the relevant body within 30 days of the service of the notice of the refusal to approve the plan. A decision on the objections shall be made by the superior state forest administration body within 30 days. If such a body does not sustain the objections, it shall specify the deadline for the submission of an amended plan to the relevant state forest administration body.
- 4) Should, during the period of duration of the plan, any changes of conditions occur which require any amendment of the binding provisions of the plan, in particular from the point of view of the protection of the forest or the fulfillment of forest designated for the fulfillment of forest functions, the owner of the forest shall be obliged to ask the relevant state forest administration body to amend the relevant binding provision.
- 5) General provisions on administrative proceedings shall not apply to proceedings on the approval of plans or amendments thereto, with the exception of decision on objections referred to in paragraph 3. In the course of proceedings on objections, the participants are the owner of the forests and the person who prepared the plan.
- 6) The provisions of paragraphs 4 and 5 shall also apply, to the relevant extent, to any amendments to the guidelines.
- 7) The Ministry shall determine the details of the particulars and contents, method of specification of binding provisions of the plans and method of approving the plans and conditions of permitting any amendments there to by way of a legal regulation.

Art. 28 - Forest Survey

- 1) Forest survey means the establishment of the actual state of forests on the territory of the state.
- 2) The execution of forest survey is declared by the government by way of an order which specifies the extent and method of forest survey.
- 3) Forest owners shall be obliged to tolerate the execution of necessary acts related to forest survey and to provide necessary information to the relevant state forest administration bodies.

Section Five - Forestry Activities

Part One

Art. 29 - Certified Forest Stand and Certified Plus Trees

- 1) Seeds or transplants of forest tree species from the same or corresponding natural forest area and from the corresponding altitude shall be used for artificial regeneration of forests and afforestation of land declared land designated for the fulfillment of forest functions (Art. 3(4)). Seeds or transplants of Norway spruce, Scotch pine and European larch (hereinafter "selected forest tree species") must come from plus trees or forest stand approved for seed collection or from seed orchards. Further forest tree species may be added to the selected forest tree species by the Ministry by way of a legal regulation.
- 2) The decision on the approval of plus trees and forest stand suitable for seed collection, seed orchards and parent tree orchards¹⁶[matečnice], is taken on the basis of an expert opinion by the relevant state forest administration body at the suggestion of the owner of the forest, or the owner of the land where the seed orchard or parent tree orchard is situated, or on its own initiative. Approval is granted for those plus trees, forest stand, orchards or parent trees which are suitable from the genetic and health point of view and from the point of view of the suitability of the site.
- 3) In its decision on the approval of forest stand for seed collection, the relevant state forest administration body shall specify the protection period for each forest stand during which main planned felling may be carried out only with its consent, or it shall restrict the extent of such felling. Such consent may be granted by the relevant state forest administration body only in relation to felling for the purposes of seed collection, stand improvement or promotion of natural regeneration; general regulations on administrative proceedings shall not apply to the issue of such consent.
- 4) Plus trees and forest stand approved for seed collection, seed orchards and parent tree orchards are published by the Ministry in the Gazette of the Ministry. The Ministry shall also appoint a legal entity to be entrusted with record keeping of

¹⁶ For example, Act No. 138/1973 Coll., Act of the Czech National Council no. 114/1992 Coll.

plus trees and forest stand approved for seed collection, seed orchards and parent tree orchards and other propagation materials and with the preparation of expert opinions (paragraph 2). Should forest stand suitable for seed collection and plus trees be approved at the initiative of the relevant state forest administration body, the owner of the forest shall be entitled to compensation for any possible losses.

- 5) Import of seeds and transplants of forest tree species from abroad for the purposes of forest regeneration and afforestation of land declared as land designated for the fulfillment of forest functions is possible only with the consent of the Ministry.
- 6) The Ministry shall determine the details of genetic classification, requirements for plus trees and forest stand for seed collection, protection periods, and establishment and approval of seed orchards and parent tree orchards by way of a legal regulation; it shall also specify the areas of origin, details on the transfer of seeds and transplants of forest tree species, details of the forest stand regeneration and afforestation of land declared as land designated for the fulfillment of forest functions, and the particulars of an application for the approval of trees or stand.
- 7) In case of an emergency, the central body of state forest administration may allow collection of cones of conifers also from felled trees of unapproved but quality stands.

Art. 30 - Handling of Seeds and Transplants of Forest Tree Species

- 1) Legal entities and individuals who carry out collection of seeds of forest tree species, seed extraction, storing, production of transplants of forest tree species or trade in seeds and transplants of forest tree species as business activities must hold a license of the relevant state forest administration body for such activities in accordance with Section Six of this Act.
- 2) Legal entities and individuals referred to in paragraph 1 shall be obliged to keep records of the origin of seeds and transplants of forest tree species and provide the buyers with information on their origin upon the sale of any seeds and transplants of selected forest tree species.
- 3) The Ministry shall specify the details of record keeping for the purposes of handling of seeds and transplants of forest tree species by way of a legal regulation.

Art. 31 - Regeneration and Tending of Forest Stand

- 1) The owner of the forest shall be obliged to regenerate the forest stand of each site with suitable forest tree species and to tend them in time and in a systematic manner to improve their state, increase their resistance and improve the fulfillment of forest functions. It is desirable to use natural regeneration in suitable conditions; natural regeneration cannot be used in stand unsuitable from the genetic point of view.
 - a) During main planned felling, the area of clear felling must not exceed one hectare, and the width of clear felling must not exceed one times the average height of the felled stand on exposed management sets and twice the average height on other sites. The width of clear felling shall not be restricted during the completion of felling of stand remains and stand of an area under one hectare. In justified cases, the relevant state forest administration body may, in the process of approving the plans or preparing the guidelines, or at the request of the owner of the forest, grant the following exemptions from the specified area or width of clear felling:
 - b) on a management set of natural pinewood sites on sandy soil, and on management sets of natural floodplain sites, up to two hectares of clear felling with no width restrictions,
 - c) on mountain slopes inaccessible for transport longer than 250 m, provided that they are not exposed management sets, up to two hectares of clear felling.

General regulations on administrative proceedings shall not apply to the granting of such exemptions.
- 2) In management sets on exceptionally unfavorable sites in protection forests, shelterwood felling and sampling shall be given priority in the course of stand regeneration.
- 3) It is prohibited to use planned felling to reduce stand density to under seven tenths of full density; this shall not apply to opening up in favor of the next generation of stand or for the purposes of reinforcement of the stand.
- 4) During forest regeneration, it is prohibited, regardless of ownership boundaries, to add another clear felling to young unestablished stands, if the total resulting area of unestablished stands should exceed the area and width specified in paragraph 2. The smallest admissible distance of clear felling from cleared areas and young unestablished stand must not be less than the average height of the regenerated stand.
- 5) A cleared area on forest land must be afforested within 2 years and forest stand on such an areas must be established within 7 years from its establishment; in justified cases, the relevant state forest administration body may, in the process of approving the plans or preparing the guidelines, or at the request of the owner of the forest, permit longer terms. General regulations on administrative proceedings shall not apply to the permitting of such longer terms.
- 6) The Ministry shall specify the details of determining management sets by way of a legal regulation.

Art. 32 - Forest Protection

- 1) The owner of the forest shall be obliged to take such measures so as to prevent the effect of harmful factors on the forest, in particular:

- a) identify and record the occurrence and extent of harmful factors and damage caused thereby required as subsequent proof of the implementation of necessary measures; in case of increased occurrence of such factors, to notify the relevant state forest administration body without delay and take necessary measures,
 - b) to take precautionary measures against the development, spreading and outbreak of harmful organisms,
 - c) take precautionary measures against outbreaks of forest fires in accordance with special regulations,¹⁷
- 2) Upon the occurrence of extraordinary circumstances and unexpected damage in the forest (e.g. wind and snow disasters, outbreaks of pests, danger of fires during periods of draughts etc.), the owner of the forest shall be obliged to take measures, without delay, to eliminate them and to reduce their impact. The relevant state forest administration body may order the owner of the forest to take the following measures:
- a) to suspend any felling other than incidental felling and processing of products of incidental felling within the specified extent and time frame,
 - b) to carry out protective actions aimed at stopping the spreading of pests or at pest control,
 - c) to destroy attacked seeds and transplants,
 - d) to mark clearly and record any felled timber,
 - e) to restrict handling of timber, seeds or transplants of forest tree species.
- 3) The measures referred to in paragraph 2 may be imposed by the relevant state forest administration body also by way of a notice.¹⁴ Should such measures be taken in the interest of a person other than the owner of the forest, the relevant state forest administration body shall also decide who is to bear related expenses.
- 4) Owners of forests, users of hunting grounds and state forest administration bodies shall be obliged to make sure that forest stands are not damaged by wild animals to an unreasonable extent.
- 5) Each forest owners shall be obliged to increase the resistance and stability of the forest, in particular through suitable composition of forest tree species and their distribution in the stand, tending in young stands, establishment of reinforcing belts at the edge and inside forest stands, use of suitable methods and procedures of regeneration, and the sequence of felling.
- 6) Each forest owner shall be obliged to carry out forestry activities in such a manner so as not to endanger the forests of neighboring owners.
- 7) It is prohibited to fence a forest to mark property boundaries or for the purposes of the restriction of the general use of the forest (Art. 19(1)); this does not apply to forest nurseries, fencing built for the protection of forest stand against animals and fencing of game preserves.
- 8) Each forest owner shall be obliged to protect the forest against the effect of pollutants discharged or generated in the course of his business activities. He shall be obliged to use solely biodegradable oils to oil engines of power saws and biodegradable hydraulic liquids. In the course of protection of forest stands, he shall be obliged to give preference to efficient technologies preserving the environment.
- 9) Should any harmful organism be found in excessive quantities in the vicinity of forests or at timber yards, the relevant state forest administration body may impose measures to exterminate such harmful organisms or to prevent spreading thereof also on legal entities and individuals who store timber or use land in the vicinity of the forests.
- 10) The Ministry shall specify the details of the measures for the protection of forests against harmful agents.

Art. 33 - Timber Harvesting

- 1) Each forest owner shall be obliged to give priority to incidental felling to prevent the development, spreading and mass outbreaks of harmful organisms. Should such incidental felling result in continuous clear felled areas exceeding 0.2 hectares, the forest owner shall be obliged to notify the relevant state forest administration body of such incidental felling no later than fourteen days prior to such felling. This notice period shall not apply to the implementation of measures under Art. 32(1)(a) and (2).
- 2) Incidental felling is included in the total volume of felled timber (Art. 24(2) and Art. 25(3)). Should the total volume of felling as set out by the approved plan or the adopted guidelines be exceeded through incidental felling, the forest owner shall be obliged to ask the relevant state forest administration body to amend the plan or the guidelines.
- 3) Felling in forests where the owner carries out forestry activities without an approved plan or adopted guidelines may be carried out only with the consent of a forest manager. Should such felling exceed the annual average of 3 m³ per one hectare of forest, the forest owner shall be obliged to notify the relevant state forest administration body in writing in advance and to submit the opinion of a forest manager. The forest owner may carry out such felling if he does not receive a negative statement of the relevant state forest administration body within 30 days from the day when the notice was sent out. General provisions on administrative proceedings shall not apply to the issue of such a statement.
- 4) It is prohibited to carry out planned main felling in forests under 80 years of age; in justified cases, during the course of approving the plan or preparing the guidelines or at the request of the forest owner, the relevant state forest administration body may grant exemptions from this rule.

¹⁷ Act of the Czech National Council No. 133/1985 Coll.

- 5) Legal entities and individuals arranging felling works shall be obliged to carry out such works in a manner reducing the negative impact on the forest ecosystem in the relevant environment.

Art. 34 - Forest Transport

- 1) Skidding, storing and hauling of timber (hereinafter "forest transport") must be carried out in such a manner so as to avoid unreasonable damage to the forest and other land.
- 2) Construction and maintenance of skidding tracks, forest transport network and other equipment in the forests must not result in any danger to the stability of forest stand, increased risk of erosion or unreasonable damage to the soil and the water regime in the relevant area.
- 3) Should it not be possible to accomplish the intended purpose, the forest owner or the person carrying out any activities in the interest of the forest owner shall be entitled to use the land of other persons for forest transport purposes for a fee in justified cases, during the necessary period of time, to the necessary extent and during suitable time. His obligation to provide compensation for any caused losses in accordance with special regulations¹⁸ shall remain unaffected.
- 4) The forest owner or the person carrying out any activities in the interest of the forest owner shall be obliged to agree in advance with the owner or the tenant of the affected land the time period, extent and duration of the use of third party land for the purposes of forest transport and the amount of the fee payable by the forest owner. If an agreement is not reached, the relevant state forest administration body shall determine the terms and conditions of forest transport on third party land and the amount of remuneration.

Art. 35 - Reclamation and Torrent Control in Forests

¹⁸ Act No. 40/1964 Coll., the Civil Code, as amended in later versions.

- 1) Reclamation and torrent control are biological and technical measures aimed at the protection of soil and care for the water management situation. Reclamation and torrent control in forests is the obligation of the forest owner unless the relevant state forest administration body or the relevant state water management administration body decides that such measures are to be taken in the public interest. If such measures are taken on the basis of a decision of the relevant state forest administration body in the public interest, the related expenses are borne by the state; the forest owner shall be obliged to tolerate the implementation of such measures. The obligations of the forest owner and the powers of state administration bodies under special regulations¹⁹ shall remain unaffected by this provision.
- 2) The relevant state forest administration body may charge the forest owner with the implementation of necessary measures or have them implemented at his expenses if the need to carry out such measure arises as a result of the activities of the forest owner; the forest owner shall be obliged to tolerate the implementation of such measures.
- 3) Preventative activities to prevent avalanche hazard, development and occurrence of landslides and ravines and high-flood-water waves and to eliminate the consequences of natural disasters shall be funded by the state or those legal entities or individuals, who benefit from such measures. Such measures shall be carried out on the basis of a decision of the relevant state forest administration body and the owner or the user of the affected plot of land shall be obliged to tolerate the implementation thereof.
- 4) The owner or the tenant of the affected plot of land shall be obliged to tolerate the use of his land, to the necessary extent, for the purposes of transport, construction and maintenance of reclamation equipment and torrent control in forests, and to participate in the implementation of funding of the works in accordance with the degree of benefit derived by him from the implementation of such works. The owner or the tenant of the affected land shall be entitled to compensation for any material losses incurred as a result of limited yield or other restrictions of the use of the affected land.
- 5) The Ministry shall specify, by way of a legal regulation, the details of reclamation and torrent control in forests and of the method of determining the amount of compensation for any measures carried out in the public interest.

Art. 36 - Forestry Activities in Protection Forests and Special Purpose Forests

- 1) In the interest of special forestry activities in protection and special purpose forests, it is possible to take measures different from some of the provisions of this Act, especially in relation to the size or adjoining of clear cutting. Such measures may be proposed in the plan or the guidelines or determined by the relevant state forest administration body at the suggestion of the forest owner or on its own initiative.
- 2) Owners of protection forests (Art. 7) shall be obliged to carry out forestry activities in such a manner so as to ensure, in particular, the protection functions of such forests.
- 3) Owners of special purpose forests (Art. 8(1) and (2)) shall be obliged to tolerate any restrictions during their forestry activities in such forests. Owners of such forests shall be entitled to compensation for any increased costs should these result from the restrictions imposed on their forestry activities. Compensation shall not be paid where forests have been declared as special purpose forests in accordance with Art. 8(2)(g) and where the compensation for increased costs is provided under special regulations.
- 4) Owners of forests referred to in paragraphs 2 and 3 shall be obliged to take measures imposed by the relevant state forest administration body to achieve the aims pursued through their imposition. Such forest owners shall be entitled to compensation for any increased costs incurred as a result of implementing such measures.
- 5) The relevant state forest administration body shall decide, at the suggestion of the forest owner, who and to what extent shall cover the increased costs of the forest owner resulting from any restrictions of his forestry activities in accordance with paragraphs 3 and 4.
- 6) The Ministry shall specify, by way of a legal regulation, the details of the provision of compensation for increased costs in accordance with paragraphs 3 and 4.

Part Two
Forest Manager

Art. 37

- 1) Each forest owners shall be obliged to carry out forestry activities in co-operation with a forest manager. The forest manager shall provide the forest owner with specialist skills required in forestry activities in accordance with this Act and legal regulations adopted for the application thereof.
- 2) The forest manager may be an individual or a legal person holding a license for such activities issued by the relevant state forest administration body in accordance with Section Six of this Act.
- 3) Each forest owner shall be entitled to choose a forest manager; he shall be obliged to notify the relevant state forest administration body of the name of the forest manager. A forest owner who carries out forestry activities according to a plan (Art. 24(3)) shall be obliged to conclude an agreement on the provision of services with the forest manager in accordance with paragraph 1. If the forest owner meets the requirements for special forestry education and experience in

¹⁹ Art. 17(1) and Art. 36(1)(b) of Act No. 138/1973 Coll.

forestry work (Art. 42), the forest owner may carry out the specialized activities of a forest manager in the forests in his ownership himself without a license.

- 4) The activities of the forest manager may be carried out by staff members of the relevant state forest administration body in the area of competence of such a body; this shall not apply to forestry activities on their personal property.
- 5) The forest owner shall be obliged to notify the relevant state forest administration body of any replacements of the forest manager within 30 days.
- 6) If the forest owner does not choose the forest manager himself, the role of the forest manager shall be fulfilled in forests, in respect of which guidelines have been prepared (Art. 25(1)), by the legal entity which executes the right of forestry activities in state-owned forests in the given area, unless the relevant state forest administration body decides to appoint another legal entity or individual.
- 7) The costs of the activities of the forest manager shall be borne by the forest owner; the costs of the activities of the forest manager carried out by a legal person or individual in accordance with paragraph 6 shall be borne by the state.
- 8) The Ministry shall specify, by way of a legal regulation, the details of the methods of calculation of the costs of the activities of the forest manager in cases where such costs are borne by the state.

Part Three Forest Wardens

Art. 38

- 1) A forest warden is a person providing the services of a security guard in forests during the course of the general use of the forests by the public.
- 2) The forest warden shall be appointed, at the suggestion of the forest owner or on its own initiative, by the relevant state forest administration body; the relevant state forest administration body shall also set out the area of competence of the warden in his identity pass. General provisions on administrative proceedings shall not apply to proceedings on the appointment of forest wardens.
- 3) The forest warden appointed by the relevant state forest administration body shall be an individual who is a citizen of the Czech Republic, over 21 years of age, who has not been convicted of a premeditated criminal offence, who is fit to carry out legal acts, who is medically fit, who has shown good knowledge of the rights and duties of forest wardens in accordance with this Act and who has taken the following oath in the presence of the relevant state forest administration body: "I vow that in my position of a forest warden I shall carry out my duties of a security guard with utmost care and diligence, that I shall observe all legal regulation in the course of such activities and shall not overstep the competence of forest wardens."
- 4) Forest wardens shall be issued badges and passes of forest wardens by the relevant state forest administration body. This body shall also keep a record of forest wardens.
- 5) Forest wardens shall be obliged to notify the relevant state forest administration body of any changes related to the conditions referred to in paragraph 3.
- 6) The relevant state forest administration body shall cancel the appointment of a forest warden if the individual in question ceases to carry out the relevant activities, ceases to meet the conditions referred to in paragraph 3, or proves that the appointment was based on incorrect information. The relevant state forest administration body may cancel the appointment of a forest warden for other reasons at the suggestion of the owner or on its own initiative.
- 7) A model badge and pass of a forest warden shall be specified by the Ministry by way of a legal regulation.

Art. 39 - Rights and Duties of Forest Wardens

- 1) During the course of their activities, forest wardens shall be obliged:
 - a) to identify themselves with passes of forest wardens and to wear their service badges,
 - b) to check that the duties related to the general use of forests are met (Art. 19 and 20).
- 2) During the course of their activities, forest wardens shall be entitled:
 - a) to check the identity of persons who violate the provisions of this Act during their use of the forest,
 - b) to impose and collect fines for offences referred to in Art. 53 of this Act in the penalty-ticket trial in accordance with a special regulation,²⁰
 - c) to bring before a police body a person whom they catch committing an offence, should there be no other way of identifying such a person.

Part Four Forest Management Records

Art. 40

- 1) Each forest owner shall be obliged to keep forest management records to show the compliance with the binding provisions of the plan, and records of forest regeneration carried out in individual stands.

²⁰ Act of the Czech National Council No. 200/1990 Coll. On Offences as amended in later versions.

- 2) A summary of the information referred to in paragraph 1 shall be annually submitted by the forest owner to the relevant state forest administration body for the previous calendar year by the end of March.

Section Six - Licensing

Art. 41 - General Conditions for the Issue of Licenses

- 1) The following general conditions must be met by individuals for the purposes of the issue of licenses:
 - a) 18 years of age,
 - b) citizenship of the Czech Republic,
 - c) fitness to carry out legal acts,
 - d) clean record.
- 2) For the purposes of this Act, persons who have been convicted of the following offences shall not be deemed to have a clean record:
 - a) criminal offences where the facts of the case are related to the subject of the license,
 - b) other premeditated criminal offences where, considering the nature of the license and the person of the applicant, there is a possibility that the applicant might commit the same or similar offence during the course of the activities which are the subject of the license.
- 3) As for legal entities, the conditions referred to in paragraph 1 must be met by their authorized representatives. An authorized representative is an individual appointed by the legal entity who is responsible for the quality of the professional aspects of the activities which are the subject of the license.

Art. 42 - Special Requirements for the Issue of Licenses

- 1) The following special requirements shall apply to the issue of licenses:
 - a) professional forestry qualification,
 - b) professional experience in forestry.
- 2) For the purpose of the issue of a license in accordance of Art. 26(1), professional forestry qualification shall mean university level forestry education, while the applicant must have at least 10 years of professional experience.
- 3) For the purposes of the issue of a license in accordance with Art. 30(1), professional forestry qualification shall mean no less than complete secondary forestry education, while the applicant must have at least 5 years of professional experience. If the subject of the license is to be only collection of seeds of forest tree species, the relevant state forest administration body which issues the license does not have to insist on these special conditions.
- 4) For the purposes of the issue of a license in accordance with Art. 37(2), professional forestry qualification shall mean university level forestry education or complete secondary forestry education, while the applicant must have at least three years of professional experience if he is a university level graduate, or 10 years if he is a secondary school graduate.
- 5) As for legal entities, the conditions referred to in paragraph 1 must be met by their authorized representatives.

Art. 43 - Obstacles for the Issue of Licenses

- 1) A license cannot be issued to an individual who has been banned by the court or an administration body from activities related to those which are the subject of the license, throughout the duration of the ban.
- 2) A license cannot be issued to an individual holding a post of a senior manager in a state-owned company, state-owned organization or a joint-stock company involved in business activities in the sphere which is the subject of the license. A license cannot be issued also to staff members of state forestry administration if the issue of such a license is ruled out or restricted by legislation governing their labor relations.

Art. 44 - Decisions on the Issue of Licenses

- 1) Unless the Ministry is the body responsible for the issue of the license, the issue of the license shall be the responsibility of the relevant state forest administration body in whose area the permanent address of the individual or legal entity in question is.
- 2) If the relevant state forest administration body finds that an applicant meets the prescribed requirements, it shall issue the applicant with a license. The information shown in the license issued to an individual shall include the following:
 - a) full name, permanent address and birth number,
 - b) business name,
 - c) identification number, if it was issued,
 - d) description of the subject of the license and duration of the license.
- 3) The information shown in the license issued to a legal entity shall include the following:
 - a) business name, address, legal form, and name and address of the person or persons who form its statutory body,
 - b) identification number,
 - c) personal details of the authorized representative (Art. 41(3)),

- d) description of the subject of the license and duration of the license.
- 4) A license is not transferable and is valid throughout the territory of the Czech Republic.
- 5) The Ministry shall specify, by way of a legal regulation, the particulars of a license application and further licensing details.

Art. 45 - Withdrawal and Expiration of Licenses

- 1) The relevant state forest administration body which issued a license shall withdraw the license if:
 - a) the license holder or the authorized representative of a legal entity ceases to meet the requirements referred to in Art. 41 and 42,
 - b) obstacles referred to in Art. 43 arise,
 - c) the license holders requests it to do so,
 - d) the license holder violates, in a serious manner, the conditions prescribed by the decision on the issue of the license or by this Act.
- 2) The issued license shall expiry:
 - a) upon the death of the license holder, should the license holder be an individual,
 - b) upon the dissolution of the legal entity.

Section Seven - Promotion of Forestry

Art. 46

- 1) The state shall promote forestry through the provision of services or funds. Funds may be provided in particular towards the following:
 - a) ecological and environmentally friendly technologies applicable in forestry,
 - b) tending stand up to 40 years of age of the stand,
 - c) increase of the share of the stabilizing and soil-improving tree species,
 - d) measures for the regeneration of forests damaged by emissions and forests declining due to anthropogenic factors,
 - e) measures for the regeneration of stand with unsuitable or substitute composition of tree species (restoration or change of stand),
 - f) afforestation measures in mountain locations,
 - g) forest protection,
 - h) measures to ensure non-wood-producing forest functions,
 - i) preventative measures against forest insect pests and measures required in other extraordinary circumstances and upon the occurrence of unexpected damage endangering the state of the forests, which are beyond the possibilities of the forest owner,
 - j) promotion of the activities of forest owners aimed at the formation of associations, and promotion of forestry activities in coppice-with-standards formed by owners of small areas of forests,
 - k) preparation of plans.
- 2) The Ministry shall decide on the provision of services or funds. General regulations on administrative proceedings shall not apply to such decisions.
- 3) No legal claims to the provision of services or funds can be made. If a forest owner obtains funding on the basis of incorrect information or uses such funding for different purposes than those for which the funding was provided, he shall be obliged to return the entire sum of the funding.
- 4) Funding may be provided also from the State Fund for the Environment, unless funding for the same purposes was provided in accordance with this Act.
- 5) The government shall annually prepare binding rules for the provision of funding and the method of checking the application of such funding, which shall form a schedule to the state budget.

Section Eight - State Forest Administration

Part One

State Forest Administration Bodies

Art. 47

- 1) State forest administration shall be carried out by:
 - a) district offices,
 - b) the Ministry.
- 2) State forest administration in military forests, which fall within the competence of the Ministry of Defense, shall be carried out by military forestry offices at the district office level. The head of the military forestry office shall be appointed and recalled by the Minister of Agriculture at the suggestion of the Minister of Defense.
- 3) State forest administration in the forests of national parks shall be carried out by bodies specified by special regulations.²¹

²¹ Act of the Czech National Council No. 114/1992 Coll.

- 4) The municipal council of the capital city of Prague shall carry out the functions of a district office in the state forestry administration.

Art. 48 - District Offices

- 1) District offices shall make decisions on the following:
- a) any doubts as to whether any land under question has been designated for the fulfillment of forest functions (Art. 3(3)),
 - b) declaration of land as land designated for the fulfillment of forest functions (Art. 3(4)),
 - c) approval of draft planning documentation which is to affect forest land, unless such a decision is the responsibility of the relevant central body of state forest administration (Art. 14(2)),
 - d) approval of the issue of planning permissions which are to affect forest land, unless such a decision is the responsibility of the relevant central body of state forest administration, and approval of decisions on the location of construction sites or use of land within 50 metres from the edge of the forest (Art. 14(2)),
 - e) division of plots of forest land, where the area of one part of the divided land is to fall below one hectare (Art. 12(3)),
 - f) withdrawal of forest land from the fulfillment of forest functions or restriction of its use for the fulfillment of forest functions, and the amount of the withdrawal fee (Art. 17(1)),
 - g) temporary restriction of entry or closing of forests (Art. 19(3)),
 - h) granting of exemptions from the prohibition of certain activities in the forest (Art. 20(4)),
 - i) specification of conditions for organized or mass sporting events in the forest (Art. 20(5)),
 - j) imposing measures to protect any persons and property against damage which might be caused by falling stones, land slide, falling stones, falling trees and avalanches coming from forest land, and determining who is to cover the related expenses (Art. 22(1) and (2)),
 - k) approval of plus trees and forest stand (Art. 29(2)),
 - l) imposing measures under extraordinary circumstances, unless such circumstances fall outside the area of their competence (Art. 32(2)),
 - m) exemptions from the prohibition of main felling in forest stand of under 80 years of age (Art. 33(4)),
 - n) terms and conditions of forest transport over third party land (Art. 34(4)),
 - o) imposing or implementation of reclamation and torrent control measures in forests (Art. 35(1), (2) and (3)),
 - p) imposing of measures different from the provisions of this Act in the interest of special forestry activities in protection forests and special purpose forests (Art. 36(1)),
 - q) specification of the amount of compensation and the payer of the compensation to the forest owner due to restrictions of forestry activities in protection forests or special purpose forests (Art. 36(5)),
 - r) issue or withdrawal of a license of a forestry manager (Art. 37(2)),
 - s) appointment of a legal entity or individual to the position of a forestry manager (Art. 37(6)),
 - t) imposing fines (Section Nine); district offices shall collect and levy such fines,
 - u) imposing measures to eliminate revealed deficiencies, measures to improve the state of the forests and the fulfillment of their functions, and suspension or restriction of production or other activities in the forest in cases of imminent danger (Art. 52(1)),
 - v) measures necessary to avert imminent danger (Art. 57).
- 2) District offices shall:
- a) keep records of leases and loans of land designated for the fulfillment of forest functions within their area of competence,
 - b) arrange the preparation of guidelines (Art. 25(1)),
 - c) approve plans prepared for forests of an area of under 1,000 hectares and amendments thereto (Art. 27(1) and (4)); in military forests, plans shall be approved by the relevant military forestry office (Art. 47(2)) following a discussion with the central body of state forest administration,
 - d) grant permissions for felling of approved trees or stand (Art. 29(3)),
 - e) grant exemptions from the specified area or width of clear felling (Art. 31(2)),
 - f) grant exemptions from legal deadlines for afforestation and establishment of young plantations (Art. 31(6)),
 - g) appoint and recall forest wardens (Art. 38),
 - h) gather forestry management records on forests within the area of their competence and refer them to the authorized legal entity,
 - i) exercise supervision of the compliance with this Act, regulations adopted for the application thereof and decision adopted on their basis (Art. 51(1)).
- 3) District offices shall exercise state administration and duties imposed on state forest administration bodies under this Act and regulations adopted on its basis in all other cases, unless another body of state forest administration is appointed to do so.

Art. 49 - The Ministry

- 1) The Ministry is the central body of state forest administration.

- 2) The Ministry shall make decisions on the following:
 - a) ranking of forests in the classes of protection forests or special purpose forests (Art. 7(2) and Art. 8(3)),
 - b) approval of the issue of planning permissions which are to affect land designated for the fulfillment of forest functions through felling of non-specified minerals, or which are to affect protection forests, special purpose forests (with the exception of military forests referred to in Art. 47(2)), and, where the affected area is to exceed 5 hectares, commercial forests (Art. 14(2)),
 - c) approval of draft planning documentation for large areas of land which is to affect land designated for the fulfillment of forest functions, and of planning documentation of all levels, where recreation and sporting facilities are to be situated on land designated for the fulfillment of forest functions,
 - d) issue or withdrawal of licenses for the preparation of plans and guidelines (Art. 26(1)),
 - e) objections to the notice of the refusal to approve the plan (Art. 27(3)),
 - f) permissions to collect cones of conifers also from felled trees of unapproved but quality stands (Art. 29(7)),
 - g) issue or withdrawal of licenses to handle seeds and transplants of forest tree species (Art. 30(1)),
 - h) imposing measures in extraordinary circumstances, should such circumstances fall beyond the area of competence of the relevant district office (Art. 32 (2)),
 - i) imposing fines on persons who fail to meet their obligations imposed by a decision of the central state forest administration body; the Ministry shall collect and levy such fines.
- 3) The Ministry shall:
 - a) manage the exercise of state forest administration, including the administration of military forests,
 - b) grant its consent to handling of state forests (Art. 4 (2)),
 - c) grant its consent to proposals to establish mining areas which are to affect land designated for the fulfillment of forest functions, and determine the method of reclamation of such land (Art. 14(2)),
 - d) give its opinion on the proposals of routes of national and transit pipe lines and any parts thereof,
 - e) announce annually average prices of timber at roadside for the purposes of determining the amounts of duties in accordance with the schedule to this Act,
 - f) commission and approve regional plans of forest development (Art. 23(1)),
 - g) approve plans prepared for forests of an area of over 1,000 hectares and any amendments thereto (Art. 27(1) and (4)),
 - h) publish the list of approved trees and stands of forest tree species (art. 29(4)),
 - i) grant its consent to the import of seeds and transplants of forest tree species (Art. 29(5)),
 - j) appoint and recall forest wardens (Art. 38),
 - k) take decisions in disputes over the competence of state forest administration bodies of the first degree,
 - l) exercise supervision of the compliance by state administration bodies, individuals and legal entities with the provisions of this Act, regulations adopted for the application thereof and decisions adopted on the basis thereof (Art. 51(1)).

Part Two

Supervision in Forestry Activities

Art. 50

- 1) The Ministry of the Environment, as part of its function of the supreme state supervisor²², shall supervise the compliance by state administration bodies, individuals and legal entities with the provisions of this Act, regulations adopted for the application thereof and decisions adopted on the basis thereof. It shall be entitled to impose measures to eliminate any revealed deficiencies.
- 2) Staff members exercising supreme supervision shall be entitled, in the course of the execution of their duties, to enter land, buildings and facilities, unless authorization to do so is required under special regulations,²³ establish and verify necessary facts, demand necessary information and explanations and inspect necessary documents. While doing so, they shall be obliged to keep confidential any state, commercial or official secrets which they have learned in the course of their activities, and to identify themselves with a pass of the body which has charged them with the exercise of state supervision. They shall be entitled to wear an official uniform.

Art. 51

- 1) State forest administration includes the supervision of the compliance with this Act and any legal regulations and decisions adopted on the basis thereof. State forest administration bodies shall also check whether owner or tenants of forests carry out their activities in accordance with approved plans or adopted guidelines. They shall impose measures to eliminate any revealed deficiencies, or measure to improve the state of the forests and the fulfillment of their functions. In case of imminent danger, they shall be entitled to decide to restrict or suspend any production or other activities in the forest until such deficiencies or their causes are eliminated.

²² Art. 19 of the Act of the Czech National Council No. 21/1969 Coll. On the Establishment of Ministries and Other Central State Administration Bodies of the Czech Republic as amended in later versions.

²³ Act No. 169/1949 Coll.

- 2) Professional members of staff of state forest administration bodies shall be entitled to wear official uniforms in the course of the execution of their duties.
- 3) The Ministry shall specify, by way of a legal regulation, details of official uniforms of staff members of state forest administration bodies and marking thereof.

Art. 52 - Duties of Professional Foresters

Staff members of legal entities (Art. 4(1)), professional forest managers (Art. 37(6)) and staff members of state forest administration bodies shall be obliged, in the course of the execution of their duties, to observe the rules of forest protection and proper conduct of forestry activities.

Section Nine - Sanctions

Part Once

Offences

Art. 53

- 1) An offence is committed by an individual who, in the course of the general use of the forest, shall:
 - a) disturb peace and quiet,
 - b) collect bedding,
 - c) lift seedlings and transplants of trees and bushes of forest tree species,
 - d) collect seeds of forest tree species, mistletoe and [ochmet] without permission,
 - e) collect fruit products in a manner damaging the forest,
 - f) camp outside designated areas,
 - g) violate the prohibition to drive and park motor vehicles without permission,
 - h) enter areas enclosed by fences or marked as no entry areas,
 - i) enter areas of forest stand where felling, handling or transport of timber is under way,
 - j) cycle, ride, ski and sledge away from roads and marked routes,
 - k) graze livestock, enable runs of livestock and drive of livestock to pasture through forest stand,
 - l) disturb the ground cover or the water regime through unauthorized extraction of soil, sand or stone,
 - m) carry out landscaping or other construction works without permission (e.g. paving or fencing), unless such activities constitute an offence under special regulations,²⁴,
 - n) fell or damage trees and bushes of forest tree species,
 - o) start or keep open fires or dump burning or smoldering objects within 50 metres from the edge of the forest,
 - p) hold organized or mass sporting events without the consent of the relevant state forest administration body,
 - q) dump waste or refuse,
 - r) smoke.
- 2) A fine of up to CSK 5,000 may be imposed by the relevant state forest administration body for any offence referred to in paragraph 1(a) to (k). A fine of up to CSK 15,000 may be imposed by the relevant state forest administration body for any offence referred to in paragraph 1(l) to (s).
- 3) Unless provided otherwise in this Act, general regulations²⁴ shall apply to offences and proceedings thereon.

Part Two

Fines

Art. 54 - Fines Imposed on Entrepreneurs

- 1) The relevant state forest administration body shall impose a fine of up to CSK 1,000,000 on an entrepreneur²⁴ who shall, in the course of his entrepreneurial activities:
 - a) refuse to use land designated for the fulfillment of forest functions for the fulfillment of such functions, or restrict such use of the land, in the absence of a decision of the relevant state forest administration body on withdrawal or restriction,
 - b) use land designated for the fulfillment of forest functions, or obstruct the use of such land for the fulfillment of forest functions, without a permission,
 - c) cause damage to the forest through felling carried out in violation of this Act, or otherwise impede forestry activities,
 - d) fail to take measures imposed by the decision of the relevant state forest administration body adopted in accordance with this Act.
- 2) The relevant state forest administration body shall impose a fine of up to CSK 100,000 on an entrepreneur who shall, in the course of his entrepreneurial activities:
 - a) lift seedlings and transplants of trees and bushes of forest tree species in the forest without the consent of the owner or tenant of the forest,
 - b) collect seeds of forest tree species, mistletoe and [ochmet] without authorization,
 - c) carry out activities prohibited in the forest,

²⁴ Art. 2(2) of Act No. 513/1991 Coll., Commercial Code, as amended in later versions.

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- d) fail to keep prescribed records on the origin of seeds and transplants of forest tree species,
- e) abuse the information found in plans or guidelines, forest management records or forest survey documentation.

Art. 55

- 1) The relevant state forest administration body shall impose a fine of up to CSK 1,000,000 on a forest owner who shall, through his intentional activities, cause considerable damage to the forest and thus endanger the fulfillment of its functions; refuse to use land designated for the fulfillment of forest functions for the fulfillment of such functions, or restrict such use of the land, in the absence of a decision of the relevant state forest administration body on withdrawal or restriction; or use land designated for the fulfillment of forest functions, or obstruct the use of such land for the fulfillment of forest functions, without authorization.
- 2) The relevant state forest administration body shall impose a fine of up to CSK 100,000 on a forest owner who shall:
 - a) carry out activities prohibited or not permitted in the forest,
 - b) fail to take measures for the protection of the forest, in particular, fail to give priority to incidental felling,
 - c) deliberately exceed decenal volume of felling,
 - d) fail to take measures imposed by the decision of the relevant state forest administration body adopted in accordance with this Act.

Art. 56 - Common Provisions on Fines

- 1) Proceedings on the imposition of fines may be initiated within one year from the day when the relevant state forest administration body learned about the breach of an obligation, within three years from the day when the violation of the obligation occurred. This provision shall not apply if the breach of the obligation continues.
- 2) When determining the amount of the fine, the gravity, manner, duration and consequences of the unlawful action shall be taken into account. The fine shall be due within 30 days from the day when the decision on the imposition of the fine came into force.
- 3) If any of the persons referred to in Art. 54(1) or Art. 55(1) breach, within one year from the day when the decision on the imposition of a fine comes into force, the same obligation in respect of which a fine has been imposed in accordance with this Act, another fine may be imposed of up to twice the amount set out by this Act.
- 4) The imposition of a fine does not affect the obligation to compensate for damage or pay duties in accordance with this Act, or the obligation to rectify an unlawful state of affairs. The body which imposed the fine shall collect and levy the fine, while following special regulations.
- 5) Fines are the income of the State Fund for the Environment.

Art. 57

In cases where the forest owners fails to meet vital obligations as set out by this Act and endangers thus the existence of the forest and neighboring forests, while sanctions under Art. 55 remain ineffective, the relevant state forest administration body shall decide on necessary measures to avert the imminent danger.

Section Ten - Common and Temporary Provisions

Art. 58 - Common Provisions

- 1) Rights and obligations of a forest owner under this Act shall pass on to the tenant or sub-tenant of the forest, unless the agreement between the owner and the tenant or the owner and the sub-tenant explicitly provides otherwise. Unless provided otherwise by this Act, relevant state forest administration bodies shall, in the course of proceedings on matters regulated by this Act, follow the Administrative Code.²⁵
- 2) If a decision of a state forest administration body might affect forestry activities in forests or the fulfillment of forest functions in an area falling within the competence of another state forest administration body, the relevant state forest administration body shall make a decision following a previous discussion with the other body.

Art. 59 - Temporary Provisions

- 1) Plans approved before this Act came into force shall remain valid in respect of the forests of owners who are obliged to carry out their activities according to a plan in accordance with this Act (Art. 24(3)), unless they submit a new plan or amendments to the existing plan in accordance with Art. 27 for approval within 28 months from the day when this Act comes into force.
- 2) Plans whose preparation started before this Act came into force shall be prepared, considered and submitted in accordance with previous regulations; provable financial circumstances shall be taken into account. Such plans may be approved in accordance with previous regulations within two years from the day when this Act comes into force.
- 3) On the day when this Act comes into force, exemptions for the administration of state forest property, granted under Art. 11(3) of Act No. 61/1977 Coll. On Forests as amended in later versions, shall cease to be valid. If the forests, whose

²⁵ Act No. 71/1967 Coll. On Administrative Proceedings (the Administrative Code).

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administration was affected by these exemptions, are the property of the state on the day when this Act comes into force, the right to carry out forestry activities in such forests shall pass on to the legal entity charged with the forestry activities in state forests as of the same day.

- 4) Provisions of paragraphs 1 and 2 shall not affect the provisions of Art. 27(4) of this Act. In respect of forests of an area under 50 hectares in the ownership of individuals, plans referred to in paragraphs 1 and 2 shall be considered guidelines in accordance with Art. 25 of this Act.
- 5) A forest owner, for whose forest a plan is prepared in accordance with paragraph 2, may notify the relevant state forest administration body within 60 days of the day when this Act comes into force that he shall arrange the preparation of a plan in accordance with this Act (Art. 24).
- 6) Ranking of forests in classes (Art. 7 and 8) must be brought into compliance with this Act within five years from the day when this Act comes into force.
- 7) Proceedings on matters regulated by Act No. 61/1977 Coll. as amended in later versions, Act of the Czech National Council No. 96/1977 Coll. and legal regulations adopted for the application thereof, initiated before this Act comes into force, shall be completed in accordance with previous regulations. The relevant state forest administration bodies must decide on these matters by 31 December 1996.
- 8) Land of the forest land fund shown in forest management plans, approved in accordance with previous legal regulations, as unstocked forest land shall be considered forest land in accordance with Art. 3(1)(a) of this Act.
- 9) Plus trees and forest stand approved for the collection of seeds before this Act comes into force shall be deemed approved in accordance with this Act unless the owner raises objections thereto.
- 10) Legal entities and individuals who carry out collection of seeds of forest tree species, seed extraction, storing, production of transplants of forest tree species or trade in seeds and transplants of forest tree species as business activities must, within three months of the day when this Act comes into force, apply to the relevant state forest administration body for a license in accordance with Section Six of this Act.
- 11) Forest owners shall be obliged to notify the relevant state forest administration body of the name of the forest manager (Art. 37(3)) within two months from the day when this Act comes into force; should they fail to do so, the relevant state forest administration body shall appoint a forest manager within six months from the day when this Act comes into force. During this period, the duties of the forest manager shall be carried out by the legal entity which was in charge of forest management in accordance with previous regulations.
- 12) Forest wardens appointed in accordance with previous regulations shall be deemed, at least till 31 December 1996, forest wardens appointed in accordance with this Act.

CHAPTER TWO

Amendments to Act of the Czech National Council No. 2/1969 Coll.

On the Establishment of Ministries and Other Central Bodies of State Administration of the Czech Republic as Amended in Later Versions

Art. 60

Act of the Czech National Council (hereinafter "CNC") No. 2/1969 Coll. On the Establishment of Ministries and Other Central Bodies of State Administration of the Czech Republic as amended by Act of CNC No. 34/1970 coll., Act of CNC No. 60/1988 Coll., Act of CNC No. 173/1989 Coll., legal regulation of the Presidium of CNC No. 9/1990 Coll., Act of CNC No. 126/1990 Coll., Act of CNC No. 203/1990 Coll., Act of CNC No. 288/1990 Coll., legal regulation of the Presidium of CNC No. 305/1990 Coll., Act of CNC No. 575/1990 Coll., Act of CNC No. 173/1991 Coll., Act of CNC No. 283/1991 Coll., Act of CNC No. 167/1992 Coll., Act of CNC No. 239/1992 Coll., legal regulation of the Presidium of CNC No. 350/1992 coll., Act of CNC No. 358/1992 Coll., ., Act of CNC No. 359/1992 Coll., Act of CNC No. 474/1992 Coll., Act of CNC No. 548/1992 Coll., Act of CNC No. 21/1993 Coll., Act of CNC No. 166/1993 Coll., Act of CNC No. 285/1993 Coll. and Act of CNC No. 47/1994 Coll. shall be amended as follows:

1. Art. 15(1) shall read as follows:

"(1) The Ministry of Agriculture is the central body of state administration for agriculture, with the exception of the protection of the agricultural land fund, and for the food industry. It is also the central body of state administration of forests, game keeping and hunting, and fishing and fish-processing industry, with the exception of national parks."

2. In Art. 16(1)(e), the words: "forests and" shall be deleted.

3. Art. 19(2) shall read as follows:

"(2) The Ministry of the Environment is the central body of state administration for water management, air protection, protection of the nature and landscape, protection of the agricultural land fund, exercise of state geology services, protection of mineral riches, ecological supervision of mining, waste industry and consideration of the impact of individual activities and their consequences on the environment including activities which fall beyond the scope of the national border. It is also the central body of state administration for game keeping and hunting, fishing and fish-processing industry, and forestry in national parks. It is also the central body of state administration for state policy on ecology."

CHAPTER THREE

Amendments to Act of the Czech National Council No. 114/1992 Coll. On the Protection of Nature and Landscape

As Amended in Later Versions

Art. 61

Act of the Czech National Council No. 114/1992 Coll. On the Protection of Nature and Landscape as amended by the legal regulation of CNC No. 347/1992 Coll. shall be amended as follows:

1. In Art. 4(3), the words: "from the point of view of the protection of the ecological stability system" shall be replaced with the words: "from the point of view of this Act", and the words: "and forest management guidelines" shall be inserted after the words: "forest management plans".
2. Paragraph 4 of Art. 4 shall be deleted.
3. In Art. 5(4), the full stop after the first sentence shall be replaced with a semicolon and the following words shall be added: "this shall not apply to geographically alien plant species, if forestry activities are carried out in accordance with an approved forest management plan or guidelines for forest management record keeping adopted by the owner."
4. In Art. 59(3), the words: "and protection of the forest land fund" shall be deleted.
5. In Art. 78(4), the words: "forestry activities, game keeping and hunting" shall be deleted.
6. In Art. 78(5), the words: "approve forest management plans for forests on the territory of national parks" shall be deleted.
7. In Art. 79(3)(l), the following words shall be added: "approve forest management plans for forests on the territory of national parks and their protection zones."

CHAPTER FOUR

Amendments to Act No. 23/1962 Coll. On Game Keeping and Hunting as Amended in Later Versions

Art. 62

Act No. 23/1962 Coll. on Game Keeping and Hunting as amended by Act of CNC No. 146/1971 Coll., Act of CNC No. 96/1977 Coll., Act of CNC No. 143/1991 Coll. and Act of CNC No. 270/1992 Coll. shall be amended as follows:

1. New paragraph 3 shall be added to Art. 16, which shall read as follows:

"(3) The agreement on the lease of a hunting ground must provide for adequate measures to prevent damage to animals, and set out who shall carry out such measures."

The existing paragraph 3 shall be marked as paragraph 4.

2. In Art. 24, the words: "or the administration of the national park" shall be deleted.
3. In Art. 29(1), the following sentence shall be inserted after the first sentence: "If the damage caused by wild animals cannot be reduced by technically adequate and economically viable methods, the district office may, at the suggestion of the owner of the hunting grounds or a state forest administration body, order a reduction of the standing crop, or order that the wildlife species causing the damage ceases to be kept in the area in question."
4. In Art. 38(2), the words: "shall be carried out by the administration bodies of national parks" shall be replaced with the words: "shall be carried out by the Ministry of the Environment".

CHAPTER FIVE

Amendments to Act of the Czech National Council No. 200/1990 Coll. On Offences as Amended in Later Versions

Art. 63

Act of CNC No. 200/1990 Coll. On Offences as amended by Act of CNC No. 337/1992 Coll., Act of CNC No. 344/1992 Coll., Act of CNC No. 359/1992 Coll., Act No. 67/1993 Coll., Act No. 290/1993 Coll., Act No. 134/1994 Coll. and Act No. 82/1995 Coll. shall be amended as follows:

Art. 33 shall be deleted.

CHAPTER SIX

Art. 64 - Repealed Legislation

The following shall be repealed:

1. Act No. 61/1977 Coll. On Forests as amended by Act No. 229/1991 Coll.
2. Act of the Czech National Council No. 96/1977 Coll. On Forestry Activities and State Administration of Forestry, with the exception of Art. 36, as amended by Act of the Czech National Council No. 425/1990 Coll.
3. Decree of the Ministry of Forestry and Water Management of the Czech Republic No. 97/1977 Coll. On Professional Forestry as amended by Decree No. 121/1992 Coll.
4. Decree of the Ministry of Forestry and Water Management of the Czech Republic No. 98/1977 Coll. On Forest Wardens
5. Decree of the Ministry of Forestry and Water Management of the Czech Republic No. 99/1977 On the Procedures for the protection of the Forest Land Fund
6. Decree of the Federal Ministry for Technical and Investment Development No. 12/1978 Coll. On the Protection of the Forest Land Fund during Planning Activities
7. Decree of the Ministry of Forestry and Water Management of the Czech Republic No. 13/1978 Coll. On Ranking of Forests, Methods of Management and Forest Management Planning
8. Guideline of the Ministry of Forestry and Water Management of the Czech Republic, ref. 35050/OSS/79 dated 1 June 1979 On the Procedures for the Removal of Land from the Forest Land Fund for the Purposes of Construction of Recreation Cottages and Recreation Facilities, registered in part of a No. 20/1979 Coll.

Art. 65

This Act shall come into force on 1 January 1996, with the exception of the second sentence of Art. 32(8) and Art. 36, which shall come into force on 1 January 1997.

Schedule to Act No.

Calculation of fees for the withdrawal of forest land

I. Calculation of the fee for temporary withdrawal

The annual fee for 1 hectare shall be calculated according to the following formula: $OLP = PP \cdot CD \cdot f$ (CSK ha⁻¹)

- OLP - fee for the withdrawal of forest land
- PP - average annual potential production of forests in the Czech Republic in m³ per ha⁻¹
- CD - average price of timber at roadside in CSK per m³
- f - factor of the ecological value of the forest

Average annual potential production of forests in the Czech Republic is stable and reaches 6.3 m³ per ha⁻¹.

Average price of timber at roadside is determined on the basis of the sale price reduced by production costs and costs of skidding to roadside. This average price of timber is annually determined and calculated by the Ministry (Art. 49(3)(e)).

Values of the factor of the ecological value of the forest are to be found in the table. The values have been set up according to the classes and sub-classes of forests.

II. Calculation of the fee for permanent withdrawal

The fee for permanent withdrawal of forest land (OLP) shall be calculated as the capital value of annual duties with the interest rate of 2%, i.e. according to the following formula:

$$OLP = \frac{PP \cdot CD \cdot f}{0.02} \text{ (CSK ha}^{-1}\text{)}$$

Tables of values of factors of the ecological value of forests (f)

Forest Class	f
Commercial forest	1.4
Protection forest	
a) Forests at exceptionally unfavorable sites	3.0
b) High-elevation forests below the upper limit of tree vegetation	5.0
c) Forests in the dwarf pine vegetation zone	5.0
Special purpose forests	
a) Forests in the protection zones of water resources of 1st degree	5.0
b) Forests in the protection zones of medicinal waters	5.0
c) Forests of national parks	
Zone 1	5.0
Zone 2	4.0
Zone 3	3.0
d) Forests in specially protected areas	5.0
e) Forests in the ecological stability systems of the area	5.0
f) Spa forests	4.0
g) Forests in suburban areas with increased medical and recreation function	3.0
h) Forests of scientific research institutes and forestry school	2.0
i) Forests declared as gene bases	3.5
j) Forests in approved hunting areas and separate pheasantries	1.5
Other forests	
a) Forests in water protection zones	
IInd degree (internal)	4.0
IInd degree (external)	2.0
IIIrd degree	2.0
b) Forests in protected areas of natural water collection	2.0

CZECH NATIONAL COUNCIL ACT No. 114/1992 Coll., on the Protection of Nature and the Landscape
(dated February 19, 1992)

PART ONE - INTRODUCTORY PROVISIONS

§ 1 - The Purpose of the Act

The purpose of this Act is to contribute towards the preservation and restoration of the natural balance in the landscape, towards the protection of the diversity of all forms of life, natural values and beauty, and towards the economical management of natural resources.

§ 2 - Nature and Landscape Protection

1) According to this Act the protection of nature and the landscape is understood to be the hereinafter specified care for wild animals, wild plants and their communities, minerals, rocks, palaeontologic finds and geological wholes, ecological systems and landscape wholes, as well as for the appearance and accessibility of the landscape, carried out by the state and by physical and legal persons.

2) The protection of nature and the landscape is ensured in particular by:

- a) the protection and establishment of territorial systems of ecological stability of the landscape;
- b) the general protection of wild plant and animal species and the special protection of such species which are rare or endangered, by positively influencing their natural development and by creating conditions for their preservation, and also by using special growing and breeding facilities;
- c) the protection of selected mineral deposits, palaeontologic finds and geomorphologic and geological phenomena, as well as by the particular protection of selected minerals;
- d) the protection of wood species growing outside forests;
- e) the establishment of a network of particularly protected areas and their care;
- f) participation in the establishment and approval of forestry plans, with the aim to ensure environmentally appropriate forestry management;
- g) participation in the process of territorial planning and building proceedings, with the aim to enforce an environmentally balanced and aesthetically valuable landscape;
- h) participation in the protection of land resources, particularly in the lay-out of land
- i) influence of water management in the landscape, with the aim to maintain natural conditions for life in water and wetland ecosystems while preserving the natural character and appearance of water courses, stretches and wetlands;
- j) the restoration and establishment of new, naturally valuable ecosystems, e.g. in the reclamation and other changes of the structure and utilization of the landscape;
- k) protection of the landscape for ecologically appropriate forms of economic utilization, tourism and recreation.

§ 3 - Definition of Terms

For the purpose of this Act some basic terms are defined as follows:

- a) A territorial system of ecological stability of the landscape (hereinafter "system of ecological stability") is a mutually integrated complex of natural and changed-though nearly natural ecosystems, which maintain a natural stability. Systems of ecological stability are distinguished as local, regional and supra-regional systems.
- b) A significant landscape component, as an environmentally, geomorphologically or aesthetically valuable part of the landscape, creates the typical appearance of the landscape, or contributes towards its stability. Significant landscape components are forests, peat-lands, watercourses, ponds, lakes, and floodplains. Other landscape components are also parts of a landscape that the nature conservation authorities register as a significant landscape component, pursuant to § 6, particularly wetlands, steppe grasslands, game refuges, continuous grass stretches, mineral and fossil deposits, artificial and natural rock formations, geological outcrops and exposures. A landscape component may also be valuable growths in settlement formations, including historical gardens and parks. Particularly protected parts of nature are exempted from this definition (letter f)).
- c) A wild plant (hereinafter "plant") is a single plant or a colony of plant species, including fungi, the population of which is sustained spontaneously and naturally. A plant is all its underground and aboveground parts.
- d) A wild animal (hereinafter "animal") is an individual of an animal species, the population of which is sustained spontaneously and naturally, and this even if it is kept in captivity, unless otherwise determined in this Act. An animal is all the development stages of the given species.
- e) An animal or plant species is also a systematic unit of a lower order.
- f) A particularly protected part of nature is a very significant and unique part of animate and inanimate nature; it can be a part of the landscape, a geological formation, a tree, an animal, a plant, or a mineral, declared as particularly protected by a state authority according to part three or four of this Act.
- g) A woods species, growing outside the forest (hereinafter "wood species") is a tree or shrub growing singly or in groups in the open landscape or in settlement formations, on land outside forest land resources.
- h) A palaeontologic find is something that is significant evidence or the remains of life from the geological past,
- i) A biotope is a complex of all animate and inanimate mutually effected factors, which form the environment of a certain individual, species, population or community. A biotope is a local environment that meets the requirements which are

characteristic for plant and animal species.

j) An ecosystem is a functional complex of animate and inanimate environmental components that are mutually connected by metabolism, energy flow and the transfer of information, and which mutually influence each other, and develop in a certain area or time.

k) A landscape is a part of the Earth's surface, with a characteristic relief, formed by a complex of functionally integrated ecosystems and elements of civilization.

PART TWO - The General Protection of Nature and the Landscape

§ 4 - Basic Obligations in General Nature Conservation

1) The specification of a system of ecological stability, ensuring the preservation and reproduction of natural wealth, a favorable effect on the surrounding less stable part of the landscape, and the establishment of a foundation for the multilateral utilization of the landscape, is determined and assessed by the territorial planning and nature conservation authorities in co-operation with the authorities for water management, agricultural land resource protection and the state forestry administration. The protection of a system of ecological stability is the obligation of every owner or user of land that forms this system; the establishment of such a system is a public interest shared by the owners of the land, by the community and by the state. The Ministry of Environment of the Czech Republic (hereinafter "Ministry of Environment") shall specify the details for defining and assessing a system of ecological stability, and the details for the plans, projects and measures in the process of its establishment, in a generally binding regulation.

2) Significant landscape components must be protected from damage and destruction. They shall be solely used in a manner which does not impair their renewal and does not endanger or weaken their stabilizing function. Whosoever intends to carry out any intervention that might lead to the damage or destruction of a significant landscape component, or could endanger or weaken its ecologically stabilizing function, must procure a binding opinion from the nature conservation authorities. Such interventions include the placing of buildings, land conditioning (layout), changes of cultures, land drainage, regulation of watercourses and reservoirs, and mineral extraction. The Ministry of Environment shall specify details for the protection of significant landscape components in a generally binding regulation.

3) A binding opinion of the nature conservation authorities with regard to this act, is also required for the approval of forestry plans and forestry lay-outs, *(for the deforestation and afforestation of and exceeding 0.5 ha, for the building of forest roads and down-drives, and for forest drainage systems. A binding opinion of the nature conservation authorities is not required for cultivation and timber production in forests, carried out in accordance with the forestry plans, and for random felling).*

§ 5 - The General Protection of Plants and Animals

1) All plant and animal species must be protected from destruction, damage, collection or catching, which leads or could lead to the endangered existence of these species or to their degeneration, to the impairment of their reproductive ability, to the extinction of a population of species, or to the destruction of the ecosystem of which they are a part. If these conditions of protection are violated, the nature conservation authorities are authorized to prohibit or limit interfering activities.

2) Protection, pursuant to paragraph 1, does not apply to the eradication of plants and animals, specified in a separate regulation. *(Endangered or rare plant and animal species are particularly protected in accordance with §§ 48 to 50 of this Act).*

3) In the execution of agricultural, forestry and building work, in water management and regulation, transport and power engineering, physical and legal persons must proceed in a manner which will not cause an excessive destruction of plants, or injury to or death of animals, nor the destruction of their biotopes, and which can be prevented with the use of technical or economically accessible means. If the liable person does not do so himself, the nature conservation authorities shall order the procurement or use of such means.

4) The intentional dispersion of geographically non-indigenous plant and animal species in the landscape is possible only with the permission of the nature conservation authorities; this will not be applied for non-indigenous plants in case of management according to the approved forestry plan or the by owner accepted forestry lay-out. A geographically not original plant or animal species is a species, which is not a part of the natural communities in a certain area.

5) The intentional crossbreeding and the subsequent dispersion of plant and animal crossbreeds in the landscape are possible only with the permission of the nature conservation authorities.

6) The export and import of endangered plants and animals, protected by international conventions which bind the Czech Republic (hereinafter "international conventions"), is subject to the permission of the nature conservation authorities, with the exception of the export and import of endangered species of wild fauna and flora, which are subject to a special regulation.

§ 6 - The Registration of Significant Landscape Components

1) The registration of significant landscape components is carried out by the nature conservation authorities, which at the same time notify the owner or tenant of the concerned land, the territorially appropriate building office and community, of this registration. If a larger number of landowners are involved, this notification may be made in the form of a public notice.

2) The notification, pursuant to paragraph 1, must include a specification on the significant landscape component, a brief substantiation for its registration, and the legal consequences thereof (§ 4, paragraph 2).

- 3) The owners of the concerned lands are entitled to raise written objections to the registration of a significant landscape component, and send them to the nature conservation authority which made the registration within 30 days of the date on which they received notification there of, or within 30 days of the date on which the public notice was issued. This nature conservation authority must discuss the objections with the owners and decide whether to confirm or cancel the registration.
- 4) The nature conservation authority, which made the registration, may cancel the registration of a significant landscape component, if this cancellation is not pursuant to paragraph 3, only if it is in the public interest to do so.

§ 7 - The Protection of Tree Species

- 1) According to this provision, wood species must be protected from damage or destruction, if they are not subject to stricter protection (§§ 46 and 48), or to protection according to separate regulations.
- 2) The care for wood species, particularly their tending and maintenance, is the duty of their owners. If wood species are infected with epidemic or other serious diseases, the nature conservation authorities may order the owners to take certain steps, including the felling of the infected wood species.

§ 8 - Permission to Fell Tree Species

- 1) If not hereinafter determined otherwise, the felling of wood species requires the permission of the nature conservation authorities. Permission may be granted for serious reasons after the assessment of the functional and aesthetic significance of the wood species.
- 2) No permission is required to fell wood species for growing and cultivation purposes, i.e. for reproducing or culling the growths, and for reasons of health, or in the execution of authority pursuant to separate regulations. ⁶⁾ Felling for these reasons must be reported to the nature conservation authorities 15 days in advance. The nature conservation authorities may stop, limit or prohibit the felling, if it is in conflict with the requirements of the protection of wood species, or if it exceeds the limits of special authority.
- 3) No permission is required for felling wood species on lands in the possession of physical persons, if they are using the lands, and if this concerns trees of a prescribed size or other characterization. The Ministry of Environment shall specify this size or characterization in a generally binding regulation.
- 4) No permission is required for felling wood species if their condition evidently and imminently endangers human life or health, or if there is danger of extensive damage. Whosoever fells wood species under these conditions shall report it to the nature conservation authorities within 15 days of the date on which the wood species were felled.
- 5) The Ministry of Environment shall specify the details for the protection of wood species and the conditions for their permitted felling in a generally binding regulation.

§ 9 - Compensatory Planting and Deliveries

- 1) In the permission it grants to fell wood species, a nature conservation authority may order the applicant to plant compensatory wood species in order to make up for the environmental detriment caused by the felling of the wood species. It may also order the subsequent care of the wood species for a period not exceeding 5 years.
- 2) Compensatory planting, pursuant to paragraph 1, may be ordered on land, which is not in the possession of the applicant for permission to fell, only with the prior approval of the owner of the land. Communities shall keep records of lands within their territory, suitable for compensatory planting, after prior discussion with the owners of the lands.
- 3) If the nature conservation authorities do not order compensatory planting, pursuant to paragraph 1, whosoever fells wood species for construction work reasons and with the permission of the nature conservation authorities, must pay a delivery to the community, which shall use it for the improvement of its environment. Whosoever fells species illegally must pay a delivery to the State Environment Fund of the Czech Republic. The amount of the deliveries, the conditions for their imposition and their possible remittance shall be specified by a separate act.
- 4) Compensatory planting, pursuant to paragraph 1, or the payment of a delivery, pursuant to paragraph 3, is simultaneously the fulfillment of the order for compensatory measures, pursuant to § 86, paragraph 2, and the order for the compensation of an environmental detriment.

§ 10 - The Protection and Utilization of Caves

- 1) Caves are an underground space caused by the effects of natural forces. For the purpose of this Act, caves are also understood to be natural phenomena on the surface of the Earth and underground, which are in direct causal nexus with caves.
- 2) It is prohibited to damage or destroy caves. The approval of the nature conservation authorities is required for accessibility to caves or their utilization, according to separate regulations.

§ 11 - The Protection of Palaeontologic Finds

- 1) Whosoever makes a palaeontologic discovery, which he himself determines, must ensure its protection from destruction, damage and theft, and take down data on the circumstances of its discovery, particularly the place of discovery. Upon written summons, issued by the nature conservation authorities, he must also inform them of the circumstances of the discovery and enable access and submit documentation concerning the discovery to persons authorized by a nature conservation authority.

- 2) The owner of the land on which a palaeontologic discovery was made, or the person who carries out activities, in the course of which the discovery was made, must - upon request of a nature conservation authority - enable persons, authorized by this authority, to carry out palaeontologic salvage research, and during this period (max. within 8 days from the date of discovery, if not agreed upon otherwise by both parties), he must refrain from carrying out any activities at the place of discovery, which could lead to its destruction or damage. When the palaeontologic salvage research is completed, persons authorized by the nature conservation authority must be allowed carrying out professional palaeontologic supervision of further work.
- 3) The export of palaeontologic finds is permitted only with the approval of the nature conservation authorities.

§ 12 - Protection of the Character of the Landscape and Natural Parks

- 1) The landscape nature of a place or area is its natural, cultural and historical character, and it must be protected from activities that reduce its aesthetic and natural values. Interference in the character of a landscape, particularly the approval and placing of buildings, may be carried out only with regard for the preservation of significant landscape components, particularly protected areas and cultural landscape high points and for harmonious standards and relations within the landscape.
- 2) The approval of the nature conservation authorities is required for approving and placing buildings, which could impair or change the character of the landscape. Details for protecting the character of the landscape may be specified by the Ministry of Environment in a generally binding regulation.
- 3) For the purpose of protecting the character of a landscape with a significant concentration of aesthetic and natural values, and which is not particularly protected pursuant to part three of this Act, the nature conservation authorities may, with a generally binding regulation, establish a natural park, and limit such use of the area which could result in its destruction, damage or disturbance.

§ 13 - Temporarily Protected Areas

- 1) The nature conservation authorities may proclaim an area with a temporary and unforeseen occurrence of significant plant and animal species, minerals or palaeontologic discoveries, a temporarily protected area. A temporarily protected area may also be proclaimed for other serious reasons, such as for scientific, research or informative purposes. A temporarily protected area may be proclaimed for a previously determined period, or for a recurring period, such as the nesting period. In its decision on the proclamation of such an area, the nature conservation authority shall limit such use of the area, which could result in its destruction, damage, or in the disturbance of the development of the subject of protection.
- 2) If the consequences of the conditions of a temporarily protected area are not insignificantly detrimental to its owner or tenant, he is entitled to a financial compensation from the nature conservation authority, which proclaimed the temporarily protected area. When deciding the amount of the compensation, this authority may request the submission of documents or information on the yield of the land, together with the application for compensation.

PART THREE - Particularly Protected Areas

Chapter One

§ 14 - Categories of Particularly Protected Areas

- 1) Naturally, scientifically or aesthetically significant or unique areas may be proclaimed particularly protected areas. When so done, the conditions of their protection must also be specified.
- 2) The categories of particularly protected areas are the following:
 - a) national parks;
 - b) protected landscape areas;
 - c) national nature reserves;
 - d) nature reserves;
 - e) national natural monuments;
 - f) natural monuments.

Chapter Two

§ 15 - National Parks

- 1) Extensive territories, unique according to a national or international standard, a considerable part of which are natural ecosystems or ecosystems little affected by human activities, where plants, animals and inanimate nature are of an exceptional scientific and educational significance, may be proclaimed national parks.
- 2) All utilization of national parks must follow and conform to the preservation and improvement of the natural conditions and must be in conformity with the scientific and educational aims pursued by the proclamation of national parks.
- 3) National parks, their mission and the detailed conditions of their protection are proclaimed by a legal act.

§ 16 - The Basic Conditions of Protection of National Parks

- 1) On the entire territory of a national park, it is prohibited:
 - a) to farm the land in a manner requiring the use of intensive technology, particularly means and activities that could cause fundamental changes in the biological diversity, structure and function of the ecosystems, or could irreversibly damage the soil surface;

- b) to neutralize waste originating outside the territory of a national park, or to neutralize other waste elsewhere than at the place assigned for this purpose with the approval of the nature conservation authorities;
 - c) to camp and light fires elsewhere than in places assigned for this purpose by the nature conservation authorities;
 - d) to drive motor vehicles and trailers (caravans) except on roads and local thoroughfares and places assigned for this purpose with the approval of the nature conservation authorities, with the exception of vehicles belonging to state administrative bodies, vehicles necessary for forestry and agriculture, the defense of the country, and for the protection of the state borders, for fire protection, for medical and veterinary services, and vehicles belonging to water-management organizations;
 - e) to organize and arrange mass sports, tourist and other public events, and to carry out water sports elsewhere than at places assigned for this purpose with the approval of the nature conservation authorities;
 - f) to practice mountain climbing and flying on parachutes and paragliders, to ride bicycles, except on roads, local thoroughfares and places assigned for this purpose with the approval of the nature conservation authorities;
 - g) to pick plants, with the exception of forest fruit, or catch animals, if not otherwise stipulated in this Act, in the detailed conditions of protection, or in the Visitors Rules of the national park;
 - h) to permit or carry out the intentional dispersion of geographically non-indigenous plant and animal species;
 - i) to introduce intensive breeding of game, for instance, in game enclosures, breeding farms and pheasanteries, with the exception of rescue breeding, and to use poisoned bait in the execution of hunters rights;
 - j) to build new highways, roads, railways, industrial buildings, residential formations, navigation channels, extra-high tension transmission lines and long-distance product pipelines;
 - k) to change the existing water conditions of the land;
 - l) to spread the thoroughfares with chemicals;
 - m) to extract minerals, rocks and hummollites, with the exception of building stone and sand for constructions on the territory of the national park;
 - n) to carry out observation flights with airborne motorized transport means;
 - o) to alter the preserved natural environment contrary to the detailed conditions for the protection of national parks.
- 2) On the territory of the first zone of a national park (§ 17, paragraph 1), it is also prohibited:
- a) to approve and place new buildings;
 - b) to leave step off the roads marked with the approval of the nature conservation authorities, with the exception of owners or tenants of the land;
 - c) to alter the present composition and areas of cultivated plant life, unless this alteration ensues from the plan of national park care;
 - d) to fertilize the land, to use farm-sewage, silage juice and other liquid waste.

§ 17 - Territorial Zoning of National Parks

1. The methods and manners of protection of national parks are graded according to the division of their territory as a rule into three zones of nature conservation, demarcated with regard to natural values. The strictest protection regime is set down for the first zone. A detailed characterization and regime of the zones is specified in the generally binding regulation, which proclaims a national park.
2. The demarcation and changes of the individual zones of nature conservation shall be determined by the nature conservation authorities in agreement with the Federal Ministry of Defense and the Ministry of Agriculture of the Czech Republic (hereinafter "Ministry of Agriculture"), and after discussing them with the respective central state administrative bodies, district councils and communities, and shall be recorded in suitably scaled maps, which shall be kept by all the authorities with which the zones were discussed. The nature conservation authorities shall mark the boundaries of the first zone in a suitable manner.

§ 18 - Plans for the Care of National Parks and Their Protective Zones

- 1) The nature conservation authorities propose and approve a plan for the care of every national park and its protective zones (hereinafter "care plan"), as a rule, for a period of 10 years. The basis for this plan is the zoning of the territory of the national park into individual zones (§ 17), and the contents of the plan is a specification of long-term and short-term tasks for the protection of plants and animals, for forest and soil care, the appearance of the landscape, the ecological limits of settlement, transport, and tourism and of management on the territory of a national park.
- 2) The care plan also contains tasks in the sphere of guard and information service, and principal internal tasks for the nature conservation authorities. The plan serves as a binding foundation for other documents and for the activities of the nature conservation authorities.
- 3) The care plan may be divided into detailed sub-plans, and for shorter periods, and may be elaborated for parts of a national park.

§ 19 - National Park Visitors Rules

- 1) The entry, access with vehicles, free passage of people outside the built-in areas of communities, and the recreational and tourist activities of persons on the territory of a national parks is limited. The conditions of this limitation and the enumeration of prohibited tourist and recreational activities are specified by this Act and by the Visitors Rules.

- 2) The Visitors Rules are issued by the nature conservation authority of a national park in the form of a generally binding public notice; persons permanently residing or working in a national park may be exempted from the effect of this public notice in a specified extent. Visitor's Rules may also be issued for part of a territory of a national park.
- 3) The Visitors Rules contain certain provisions on the social, educational and cultural utilization of a national park.

§ 20 - The National Park Council

- 1) The nature conservation authority of a national park shall establish a council of the national park (hereinafter "council") for the assessment and discussion of all important documents concerning the protection and management of the national park and its protective zones, particularly the division of the territory of a national park into zones of nature conservation, as well as of the care plans, Visitors Rules, forestry and territorial plans, as an initiative and consultative authority for matters pertaining to the national park.
- 2) Members of the council are delegated representatives of communities, district councils, and in mountain areas, representatives of the Mountain Rescue Service on the territory of which the national park and its protective zones are located. Other council members are appointed by the nature conservation authority of the national park from among the most prominent legal and physical persons with business undertakings on the territory of the national park, particularly in the sphere of forestry, agriculture, trade and travel, specialists from scientific and specialized institutions, or from other state administrative bodies.
- 3) Prior to approving national park zones (§ 17), the Visitors Rules (§ 19) and the care plan (§ 18), the nature conservation authority must agree on a draft of these documents with the representatives of the communities who were delegated to the council according to paragraph 2.
- 4) If no agreement, according to paragraph 3, is reached, the council shall submit this dissension with its own binding opinion to the Ministry of Environment, which shall decide the matter after discussing it with the involved communities.

§ 21 - Hunting and Fishing Rights in National Parks

The nature conservation authorities may limit or bar the execution of hunting and fishing rights, pursuant to separate regulations, in certain parts of a national park or on its entire territory.

§ 22 - National Park Forests

- 1) Forests in national parks cannot be categorized as utilitarian forests; provisions on interventions against pests and on cases of exceptional circumstances and unforeseen damage may be applied only with the approval and in the extent determined by the nature conservation authorities.
- 2) The right to utilize forests, forest land resources and other forest property in the possession of the state, which are on the territory of a national park and its protective zones, shall be transferred to the respective administration of a national park by the legal persons executing their right of utilization, within one year of the date on which this Act came into legal force, and in cases of national parks, proclaimed after this Act came into legal force, within one year of the date on which the national park was proclaimed.
- 3) With regard to transferred property according to paragraph 2, the respective national park administration shall execute utilitarian rights directly or through a legal person, whom it shall appoint for this purpose.
- 4) The period specified for the transfer of property pursuant to paragraph 2 is prolonged to two years in the case of the Giant Mountain National Park.

§ 23 - Property Rights to Certain Property in National Parks

Forests, forestland resources, watercourses and water stretches on the territory of national parks, which are state owned up to the date on which this Act comes into legal force, cannot be appropriated. This does not effect the rights of physical or legal persons pursuant to regulations on the restitution of property.

§ 24 - Charges in National Parks

- 1) The nature conservation authorities may collect charges from drivers of motor vehicles who drive them into and stay on the territory of a national park, or from persons who enter specifically selected parts of national parks. This does not apply to persons permanently working or living on the territory of a national park, or to physical persons owning recreational facilities on the territory of a national park.
- 2) For driving in the territory of a national park with a motor vehicle, which is subject to charges according to paragraph 1, the nature conservation authorities may also collect a one-time charge. The Ministry of Environment shall define the maximum amount and the manner of imposing this charge in a generally binding regulation.
- 3) The amount of the charges, pursuant to paragraphs 1 and 2, and the manner of collecting charges, shall be specified by the nature conservation authority of the national park in a public notice.
- 4) Charges in national parks are an income for the respective nature conservation authority of a national park.
- 5) If a nature conservation authority makes use of its rights according to paragraphs 1 and 2, no additional charges may be collected in these places in accordance with the act on local charges.

Chapter Three

§ 25 - Protected Landscape Areas

- 1) Extensive territories with a harmoniously formed landscape, a characteristically developed relief, a significant share of natural ecosystems of forest and permanent grass growth, with abundant wood species, or with preserved monuments of historical settlement, may be proclaimed protected landscape areas.
- 2) The utilitarian use of such territories must be carried out according to the zones of graded protection so as to preserve and improve their natural condition, and to preserve and create the optimum ecological function of these territories. Recreational use is admissible, provided it does not damage the natural values of the protected landscape area.
- 3) Protected landscape areas, their mission and detailed condition are proclaimed by the Government of the Republic in a decree.

§ 26 - The Basic conditions for the Protection of Protected Landscape Areas

- 1) On the entire territory of a protected landscape area it is prohibited:
 - a) to neutralize waste other than in places assigned for this purpose with the approval of the nature conservation authorities;
 - b) to camp and light fires except in places assigned for this purpose with the approval of the nature conservation authorities;
 - c) to drive motor vehicles and trailers (caravans) in the area except on roads, thoroughfares and places assigned to this purpose with the approval of the nature conservation authorities. This does not apply to vehicles belonging to state administrative bodies, vehicles necessary for forestry and agriculture, the defense of the country and for the protection of the country and for the protection of the state border, for fire protection, for medical and veterinary services, and to vehicles belonging to water management organizations;
 - d) to permit, or to carry out the intentional dispersion of non- indigenous original plant and animal species;
 - e) to use poisoned bait in the execution of hunting rights;
 - f) to build new highways, settlement formations and navigation channels;
 - g) to organize automobile and motorcycle races;
 - h) to spread the thoroughfares with chemicals;
 - i) to alter the preserved natural environment contrary to the detailed conditions for the protection of protected landscape areas.
- 2) On the territory of the first zone of a protected landscape area, it is also prohibited:
 - a) to permit the placing and to place new buildings;
 - b) to permit a change and to change the utilization of the territory;
 - c) to alter the present composition and location of cultivated plant life if this alteration does not ensue from the care plan for protected landscape areas;
 - d) to fertilize the land, use farm-sewage, silage juice and other liquid waste;
 - e) to extract minerals and hummollites.
- 3) On the territory of the first and second zones of a protected landscape area it is also prohibited:
 - a) to farm the land in a manner which requires the use of intensive technology, particularly means and activities that can cause fundamental changes in the biological diversity, structure and function of ecosystems, or can irreversibly damage the soil surface, to use biocides, to alter the water conditions, or to carry out extensive adjustments (alterations) of the terrain;
 - b) to introduce the intensive breeding of game, e.g., in game enclosures, breeding farms and pheasanteries;
 - c) to organize bicycle races, except on roads, local thoroughfares and places assigned for this purpose with the approval of the nature conservation authorities.

§ 27 - Zones and Care Plans in Protected Landscape Areas

- 1) For the detailed specification of the manner of protecting protected landscape areas, usually four, but at least three zones of graded nature conservation are demarcated; the first zone has the strictest rules of protection. The nature conservation authorities demarcate the zones after discussing them with the respective central state administrative bodies, district councils and communities. A detailed regime for the nature conservation zones in protected landscape areas is determined together with the proclamation or alteration of the detailed conditions of protection in protected landscape areas (§ 25, paragraph 3) in a generally binding regulation.
- 2) The nature conservation authorities propose and approve plans for the care of protected landscape areas (hereinafter "care plans") for a period of ten to fifteen years, to regulate and influence human activities with regard to the mission of protected landscape areas, and to set medium-term and long-term nature conservation tasks in these areas, particularly for the care of plants and animals.
- 3) The care plans ensue from the conditions of protection in the nature conservation zones of protected landscape areas (paragraph 1), and are the initial foundation for territorial planning documentation, forestry plans, water resources development plans and other types of planning documentation.

Chapter Four

§ 28 - National Nature Reserves

- 1) Smaller territories of an exceptional natural value, where the natural relief, together with a typical geological structure, forms ecosystems which are unique and significant on a national or international scale, may be proclaimed national nature reserves by the nature conservation authorities, which at the same time specify their conditions of protection.
- 2) The utilization of national nature reserves is possible only if their hitherto natural environment is preserved or improved.

§ 29 - Basic conditions for the Protection of National Nature Reserves

On the entire territory of national nature reserves it is prohibited:

- a) to farm the land in a manner which requires the use of intensive technology, particularly means and activities which can cause fundamental changes in the biological diversity, structure and functions of ecosystems, or can irreversibly damage the soil surface, to use chemicals, to alter the water conditions, or to carry out alterations of the terrain;
- b) to permit the placing of, and to place buildings;
- c) to extract minerals and hummollites;
- d) step off marked paths, marked with the approval of the nature conservation authorities, with the exception of the owners or tenants of lands;
- e) to permit or to carry out the intentional dispersion of non-indigenous and animal species;
- f) to practice mountain climbing and flying with parachutes and suspension gliders, and to ride bicycles, except on roads, local thoroughfares and places assigned for this purpose by the nature conservation authorities;
- g) to introduce the intensive breeding of game, for instance in game enclosures, breeding farms and pheasanteries, and to use poisoned bait in the execution of hunting rights;
- h) to drive motor vehicles, with the exception of vehicles belonging to state administrative bodies, vehicles necessary for forestry and agriculture, the defense of the country and protection of state borders, fire protection, and for medical and veterinary services;
- i) to pick plants or catch animals, if this does not involve cases pursuant to § 30;
- j) to camp and light fires, except in places assigned to this purpose by the nature conservation authorities;
- k) to alter the preserved natural environment contrary to the detailed conditions for the protection of national nature reserves.

§ 30 - Hunting and Fishing Rights in National Nature Reserves

The execution of hunting and fishing rights in national nature reserves is possible only with the approval of the nature conservation authorities.

§ 31 - National Nature Reserve Forests

Forests in national nature reserves cannot be categorized as utilitarian forests; the provisions on interventions against pests ¹²⁾ and on cases of exceptional circumstances and unforeseen damage may be applied only with the approval and to the extent determined by the nature conservation authorities.

§ 32 - Property Rights to Certain Property in National Nature Reserves

Forests, forest land resources, water courses, water stretches and unbuilt-on land on the territory of national nature reserves, which are state owned up to the date on which this Act comes into force, cannot be appropriated. This does not effect the rights of physical and legal persons pursuant to regulations on the restitution of property.

§ 33 - Nature Reserves

- 1) Smaller territories of concentrated natural values with ecosystems, typical and significant for the involved geographical region, may be proclaimed nature reserves by the nature conservation authorities, which at the same time determine the detailed conditions of their protection.
- 2) Unbuilt-on land on the territory of nature reserves, which is state owned to the date on which this Act comes into force, may be appropriated only with the approval of the Ministry of Environment. This does not effect the rights of physical and legal persons pursuant to regulations on the restitution of property.

§ 34 - Basic conditions for the Protection of Nature Reserves

1) On the entire territory of a nature reserve it is prohibited:

- a) to farm land in a manner which requires the use of intensive technology, particularly means and activities which can alter the biological diversity, structure and function of ecosystems, or irreversibly damage the soil surface;
 - b) to use biocides;
 - c) to permit the placing of and to place new buildings;
 - d) to permit or carry out the intentional dispersion of geographically non-indigenous plant and animal species;
 - e) to pick plants or catch animals, with the exception of the execution of hunting and fishing rights, or the picking of forest fruit;
 - f) to alter the preserved natural environment contrary to the detailed conditions of protection in nature reserves.
- 2) The nature conservation authorities may limit the execution of hunting and fishing rights if it is contrary to the conditions of protection on nature reserve territory.

Chapter Five

§ 35 - National Natural Monuments

- 1) A natural formation of a smaller extent, particularly a geological or geomorphologic formation, a mineral deposit, or rare or endangered species in fragments of ecosystems, of national or international environmental, scientific or aesthetic significance, as well as such formations which were formed by nature and human activities, may be proclaimed a national natural monument by the nature conservation authorities, which at the same time shall determine the detailed conditions of its protection.
- 2) Changing or damaging national natural monuments and their utilization is prohibited, if this could cause their damage.
- 3) Forests, forest land resources, water courses, water stretches and unbuilt-on land on the territory of national natural monuments, which are state owned to the date on which this Act comes into force, cannot be appropriated. This does not effect the rights of physical and legal persons pursuant to regulations on the restitution of property.

§ 36 - Natural Monuments

- 1) A natural formation of a smaller extent, particularly a geological or geomorphologic formation, a mineral deposit or rare or endangered species in fragments of ecosystems, of national or international environmental, scientific or aesthetic significance, as well as such formations which were formed by nature and human activities, may be proclaimed a national natural monument by the nature conservation authorities, which at the some time shall determine the detailed conditions of its protection.
- 2) Unbuilt-in lands on the territory of natural monuments, which are state owned up to the date on which this Act came into force, may be appropriated with the approval of the Ministry of Environment. This does not effect the rights of physical and legal persons pursuant to regulations on the restitution of property.

Chapter Six

§ 37 - The Protective Zones of Particularly Protected Areas

- 1) If it is necessary to safeguard particularly protected areas from disturbing influences of the surroundings, a protective zone may be proclaimed for them, where it is possible to specify activities and actions that are subject to the prior approval of the nature conservation authorities. The authority which proclaimed the particularly protected area, and which shall do so in the same manner proclaims a protective zone. If a protective zone for a national nature reserve, a national natural monument, a nature reserve or a natural monument is not proclaimed, then the area within a distance of 50 m from the borders of a particularly protected area becomes a protective zone.

§ 38 - Care Plans for Selected Particularly Protected Areas

- 1) The development of the natural conditions in national nature reserves, nature reserves, or in national natural monuments and natural monuments and their protective zones, is regulated on the basis of care plans. These plans contain instructions for the regulation of natural development and human activities, particularly for the execution of practical interventions in the respective particularly protected parts of nature.
- 2) The nature conservation authorities, as a rule approve the care plans for a period of ten years. They are used as a binding foundation for other types of planning documents, particularly for forestry plans and territorial planning documentation.
- 3) The Ministry of Environment may specify details on the requisites of the care plans in a generally binding regulation.

§ 39 - Contractual Protection of Certain Particularly Protected Parts of Nature

Nature conservation authorities may also establish nature reserves, natural monuments and memorable trees (§ 46), including their protective zones, on the basis of a written agreement on the conditions of protection, concluded between the authority authorized to proclaim them and the owner of the involved land, under the condition that a thus concluded agreement shall be permanently bound to the involved land in the form of a burden on the land.

§ 40 - Proclamation Procedures for Particularly Protected Areas

- 1) The nature conservation authorities, authorized to proclaim particularly protected areas, shall notify the owners and tenants of the involved lands of their intention to do so. The nature conservation authorities shall notify the owners and tenants of the involved lands through the community authorities of their intention to proclaim a national park or a protected landscape area, as a rule in the form of a public notice. The Ministry of Environment shall specify the details of notification, pursuant to this paragraph, in a generally binding regulation.
- 2) The owners of the involved lands are entitled to raise objections to the intention to proclaim a particularly protected area, pursuant to paragraph 1, within 30 day of the date on which they received notification thereof, or of the date on which the public notice was issued, in the form of a written communication to the nature conservation authority which issued the notification.
- 3) The nature conservation authority, authorized to proclaim a particularly protected area, must assess the objections, pursuant to paragraph 2, and inform those who raised the objections, of its conclusions within 60 days.
- 4) From the date on which they were notified of the intention to proclaim a particularly protected area according to paragraph 1, until the final decision, but for a period no longer than two years, the owners of the involved land must refrain from any

interventions which could negatively change or damage the preserved natural condition of the territory proposed for particular protection.

§ 41 - Discussion of Proclamation Intentions with the State Administrative Bodies

- 1) The nature conservation authorities shall discuss their intention to proclaim a national park, a protected landscape area, a national nature reserve or national natural monument with the central state administrative bodies, according to separate regulations.
- 2) The state administrative bodies in question must deliver their opinion on the proposals and intentions, pursuant to paragraph 1, within 30 days of the date on which they were submitted.

§ 42 - The Filing and Marking of Particularly Protected Areas

- 1) Particularly protected areas are recorded in the central files of the nature conservation authorities (hereinafter "central files").
- 2) The central files are public and anyone may examine them in the presence of an authorized person. The Ministry of Environment shall determine the details for filing in a generally binding regulation, and in this regulation shall also determine the legal person authorized to keep the central files.
- 3) The nature conservation authorities shall notify the appropriate geodesy and cartography authorities of every proclamation, change or cancellation of a particularly protected area, pursuant to paragraph 1.
- 4) The large national emblem of the Czech Republic shall be used to mark national parks, protected landscape areas, national nature reserves and national natural monuments. The small national emblem of the Czech Republic shall be used to mark nature reserves and natural monuments.
- 5) The Ministry of Environment shall specify the details for the manner of marking particularly protected areas in maps and in the territory.

§ 43 - Exceptions from Prohibitions in Particularly Protected Areas

In cases where public interest markedly predominates nature conservation interests, the nature conservation authority, authorized to proclaim protection, may permit exceptions from prohibitions pursuant to §§ 16, 26, 29, 34 and § 35, paragraph 2.

§ 44 - Approval of Some Activities in Particularly Protected Areas

- 1) Without the approval of the nature conservation authorities no decision may be issued on the placing, permission or change in the use of buildings, on permission to treat water and for water-management works on permission for certain activities, or on granting permission according to the Water Act.
- 2) Activities and interventions, which are subject to the prior approval of the nature conservation authorities, may be specified in the detailed conditions of protection for particularly protected areas.

§ 45 - The Cancellation of Particularly Protected Areas and Their Protective Zones

- 1) The authority which proclaimed an area and its protective zone a particularly protected area, is authorized to cancel this protection in the same manner in which it was proclaimed, and this only for reasons for which no exception from the detailed conditions of protection (§ 43) can be granted, or if the reasons for particular protection cease to exist.
- 2) Contractual particular protection of an area, proclaimed according to § 39, may be cancelled on the basis of a written agreement between the owner of the land and the nature conservation authority authorized to proclaim it. If the owner of the land does not agree, the nature conservation authority, which is authorized to conclude the agreement, shall decide the cancellation itself.

PART FOUR - Memorable Trees, Particularly Protected Plant, Animal and Mineral Species

Chapter One

§ 46 - Memorable Trees and Their Protective Zones

- 1) By the decision of the nature conservation authorities, exceptionally remarkable trees, groups of trees and rows of tree may be proclaimed memorable trees.
- 2) It is prohibited to damage and destroy trees and to disturb their natural development; their tending is carried out with the approval of the nature conservation authority, which proclaimed their protection.
- 3) If it is necessary to safeguard memorable trees from the damaging influence of the surroundings, the nature conservation authority which proclaimed them shall demarcate a protective zone for them, where certain activities and interventions may be carried out only with the prior approval of the nature conservation authority. If this authority does not do so, every tree shall have a basic protective zone in the shape of a circle of a radius equal to ten times the diameter of the tree trunk, measured 130 cm above ground level. No harmful activities, such as construction work, alternations of the terrain, drainage, chemical applications, are permitted within this zone.
- 4) The nature conservation authorities may cancel the protection of a memorable tree only for reasons for which an exception according to § 56 is granted.

§ 47 - Recording and Marking Memorable Trees

- 1) Memorable trees are recorded in the central files (§ 42, paragraphs 1 and 2).

- 2) The small national emblem of the Czech Republic shall be used to mark a memorable tree.
- 3) The Ministry of Environment shall specify more detailed conditions for the manner of marking memorable trees in the open and in maps in a generally binding regulation.

§ 48 - Particularly Protected Plants and Animals

- 1) Endangered or rare, scientifically or culturally significant plant and animal species may be proclaimed particularly protected species.
- 2) According to the degree to which they are endangered, particularly protected plant and animal species are divided into the following groups:
 - a) critically endangered species;
 - b) severely endangered species;
 - c) endangered species.
- 3) The Ministry of Environment shall determine a list of particularly protected plant and animal species and the degree of jeopardy, according to paragraphs 1 and 2, in a generally binding regulation.

§ 49 - Basic conditions for the Protection of Particularly Protected Plants

- 1) Particularly protected plants are protected in all their underground and aboveground parts and all stages of development; their biotopes are also protected. It is prohibited to collect, pick, dig up, damage, destroy, or otherwise disturb the development of these plants.
- 2) Protection according to this Act does not apply to plants:
 - a) if they grow naturally within other cultivated plant life and if they are destroyed, damaged or disturbed in their natural development in connection with the usual cultivation of this cultivated plant life
 - b) if they are grown in cultured plant life which is acquired in a permitted manner,
 - c) if they come from imported species and are not subject to protection according to international conventions.
- 3) Usual cultivation according to paragraph 2, letter a) must not be understood as an intervention which could cause changes in the hydrological soil conditions, soil surface or chemical properties of the environment, except for interventions in the course of usual forestry work in accordance with the valid forestry plans.
- 4) The provisions of paragraph 2, letter a) do not apply to critically and severely endangered species; in this case the manner of usual cultivation requires the prior opinion of the nature conservation authorities, which may impose compensatory protective measures, e.g. the rescue transfer of the plants.
- 5) The Ministry of Environment shall specify the more detailed conditions of protection of particularly protected plants in a generally binding regulation.

§ 50 - Basic conditions for the Protection of Particularly Protected Animals

- 1) Particularly protected animals are protected in all their stages of development. The natural and artificial habitats they use, as well as their biotopes, are protected. The Ministry of Environment shall specify selected animals, which are protected even when perished, in a generally binding regulation.
- 2) It is prohibited to harmfully intervene in the natural development of particularly protected animals, especially to catch them, hold them in captivity, disturb, injure or kill them. It is not permitted to collect, destroy, damage or transfer them in any of their stages of development, nor the habitats they use.
- 3) Protection, according to this Act, does not apply to cases when intervention in the natural development of particularly protected animals is demonstrably necessary in consequence of current work on real or other property, or for hygienic reasons. In such cases the manner and time of such interventions requires the prior opinion of the nature conservation authorities, which may impose compensatory protective measures, e.g. the rescue transfer of the animals.
- 4) The provisions of paragraph 3 do not apply to severely and critically endangered species.
- 5) More detailed conditions of protection of particularly protected animals, especially if this concerns zoological gardens, rescue breeding, care of injured animals, and authorized taxidermy, shall be determined by the Ministry of Environment in a generally binding regulation.

§ 51 - The Particular Protection of Minerals

- 1) Mineral species, which are rare or scientifically or culturally valuable, may be proclaimed particularly protected minerals.
- 2) It is not permitted to damage or collect particularly protected minerals in the place of their natural deposit without the approval of the nature conservation authorities.
- 3) The Ministry of Environment shall specify a list of particularly protected minerals, pursuant to paragraph 1, and the detailed conditions of their protection in a generally binding regulation.

§ 52 - Rescue Programmes for Particularly Protected Species

All nature conservation authorities must establish rescue programmes for the protection of particularly protected plant and animal species, with the aim to create conditions enabling such a reinforcement of the population of these species which would lead to a lesser degree of their jeopardy. Rescue programmes consist in a proposal for and implementation of special

controlled development regimes, such as rescue breeding, introduction, reintroduction, rescue transfers and other accessible methods suitable for achieving the pursued aim.

§ 53 - Export

- 1) The export of particularly protected animals, plants and minerals is prohibited. In exceptional cases deserving special consideration, the Ministry of Environment may grant permission for the export of such species.
- 2) This permission does not replace approval according to separate regulations.

§ 54 - Evidence of Origin

- 1) Whosoever keeps, offers for sale or processes particularly protected plants, particularly protected animals, or plants and animals protected in accordance with international conventions (§ 5, paragraph 6), must, upon the summons of a nature conservation authority prove the permissive manner of their acquisition (permitted import, permitted breeding or collection, permitted growing in cultures, etc.). It is prohibited to keep, offer for sale, or process particularly protected plants, animals, or animals and plants protected according to international conventions, without evidence of their origin.
- 2) Whosoever keeps, offers for sale or processes a plant or animal, pursuant to paragraph 1, must prove his identity if so requested by a nature conservation authority or nature guard (§ 81).

Chapter Two

§ 55 - Discussion of Proclamation Intentions

- 1) The nature conservation authorities shall discuss their intention to proclaim memorable trees with the owners of such trees and with the state administrative bodies involved according to separate regulations, in accordance with § 40.
- 2) Particularly protected plant, animal and mineral species are proclaimed by the nature conservation authorities in agreement with the Ministry of Agriculture and after discussing them with the central state administrative bodies involved, according to separate regulations.
- 3) The involved central state administrative bodies must state their opinion on the proposals and intentions, submitted according to paragraph 1, within 30 days of the date on which they were submitted.

§ 56 - Exceptions to Prohibitions Concerning Memorable Trees and Particularly Protected Plant, Animal and Mineral Species

- 1) In cases where other public interests significantly predominate nature conservation interests, the nature conservation authorities shall permit exceptions to prohibitions concerning memorable trees and particularly protected plant, animal and mineral species, pursuant to § 46, paragraph 2, § 49, § 50 and § 51, paragraph 2.
- 2) In a decision to grant an exemption, the nature protection authority shall be authorized to establish the obligation to mark an animal of a particularly protected species with an unambiguous and irremovable mark or may decide that such identification is not required.

§ 57 - Approval of Some Activities Concerning Particularly Protected Plant, Animal and Mineral Species

It is possible to specify activities and interventions, which are subject to the prior approval of the nature conservation authorities, in the detailed conditions for the protection of particularly protected plant or animal species (§ 50, paragraph 5) or mineral (§ 51, paragraph 3).

PART FIVE - Some Limitations of Property Rights, Financial Contributions in Nature Conservation, Access to the Landscape, Public Participation, and Right to Information in Nature Conservation.

Chapter One

§ 58 - Basic Obligations

Whosoever enjoys nature and the landscape must suffer the limitations ensuing from this Act.

§ 59 - The Safeguarding of Lands for Establishing Systems of Ecological Stability

- 1) To ensure the conditions for establishing a system of ecological stability, measures, projects and plans according to § 4, paragraph 1, are carried out in agreement with the owner of the land.
- 2) If the establishment of a system of ecological stability requires a change in the utilization of land, which the owner of this land does not agree to, the Land Office shall offer to exchange his land for land in the possession of the state, adequate in area and quality to his original land, and if possible, in the same community where the major part of the land is located.
- 3) Provisions on the protection of agricultural land resources do not apply to lands required for the implementation of measures, projects and plants for the establishment of systems of ecological stability, pursuant to § 4, paragraph 1.

§ 60 - Expropriation and Obligatory Transfers of Management Rights

- 1) It is possible to expropriate real property or the property rights to this property for the protection of nature and the landscape in cases specified by a separate regulation.
- 2) Procedures of separate regulations on expropriation shall be applied in cases of expropriation pursuant to paragraph 1, and based on a proposal of the nature conservation authorities.

- 3) A nature conservation authority may transfer the management rights to state-owned property to itself for reasons and to the extent specified in paragraph 1. The transfer of management rights is free of charge; it may only be charged if the transfer acquired the real property for a charge.
- 4) The Ministry of Environment shall specify the procedural details for transfers of management rights, pursuant to paragraph 3, in a generally binding regulation.

§ 61 - State Preemption Rights and the Financing of Land Purchase

- 1) Owners of not built-on land, which is located outside settlement formations on the territory of national parks, national nature reserves or national natural monuments, and owners of caves, must, in the case of their intended sale, first offer the sale of these lands to the nature conservation authorities. If these authorities do not manifest a binding interest in this land in writing within 60 days of the date on which they received the offer, the owners may carry out the intended sale of their land.
- 2) It is possible to provide a financial contribution from the State Environment Fund of the Czech Republic to ensure the purchase of land in particularly protected areas or significant landscape components by the state.

§ 62 - Admittance to Lands

- 1) All nature conservation authority employees, who in the course of their work prove their identity with an official identification card, are entitled to enter foreign lands for the execution of tasks ensuing from this Act and from other nature and landscape protection regulations. When so doing, they may also carry out necessary measurements, observation, documentation, and may demand information necessary for determining the condition of the environment. When carrying out these activities the nature conservation authority employees must spare the lands as much as possible, as well as all the owner's rights.
- 2) The state is responsible for any damage caused by employees of the nature conservation authorities in the execution of their activities according to paragraph 1. The state cannot be exempted from this obligation.
- 3) Admittance to premises and buildings, used by the armed forces and armed corps, is governed by separate regulations.

§ 63 - Access to the Landscape

- 1) It is not permitted to establish or disestablish publicly accessible roads, trails and paths outside the built-in area of a community without the approval of the respective nature conservation authority. The community authorities keep records of publicly accessible roads, trails and paths within their territorial province.
- 2) Everybody is entitled to free passage over lands in the possession or tenancy of the state, a community, or other legal persons, provided he does not cause damage to the property or the health of another person, and does not transgress the rights to protection of another person's public personality or neighborhood rights. In so doing everybody must respect the legitimate rights of the owner or tenant of the land and the appropriate generally binding regulations.
- 3) The rights pursuant to paragraph 2 do not apply to built-on land or building sites, courtyards, gardens, orchards, vineyards, hop-gardens and lands destined for animal farming. Arable soil, meadows and grazing lands are exempted from the rights, pursuant to paragraph 2, at a time when damage may be caused to the growth or soil, or during the grazing of cattle. Separate regulations may restrict or change the right pursuant to paragraph 2.
- 4) When enclosing or fencing in land, which is not exempted from, the right of free passage pursuant to paragraph 3, the owner or tenant of the land must ensure free passage over the land by technical or other means, and in a suitable place.

§ 64 - Limitation of Access for Nature Conservation Reasons

If there is danger of damage to the territory in national parks, national nature reserves, national natural monuments and in the first zone of protected landscape areas, primarily by an excessive inflow of visitors, the nature conservation authorities may, after discussing it with the involved communities, limit or prohibit public access to these territories or to their parts. Prohibited or limited access must be properly marked on all the access roads and paths, and in a suitable manner in other places as well.

§ 65 - Affecting the Interests of Nature Conservation

A state administrative body, when issuing decisions in accordance with separate regulations,³²⁾ which could affect the interests protected by this Act, can do so only in agreement with the nature conservation authorities, provided this Act does not prescribe another procedure.

§ 66 - Limitation and Prohibition of Activities

The nature conservation authorities are entitled to impose upon physical and legal persons conditions for the execution of activities which could cause an unwarranted change in generally or particularly protected parts of nature, or they may prohibit such activities.

Chapter Two

§ 67 - The Obligations of Investors

1. Whoever, within the framework of construction work or other use of the landscape, intends to carry out consequential interventions which could affect protected interests pursuant to Parts Two, Three or Four of this Act (hereinafter "investor"), must at his own expense arrange for a natural scientific study of the involved land and procure a written assessment of the

effect of the intended intervention on plants and animals (hereinafter "biological assessment") if this intervention is found necessary by the nature conservation authority which is appropriate to approve it. The nature conservation authority with regard to his qualifications must approve the physical or legal person, who makes the biological assessment on the basis of a proposal made by the investor or participant of the pertinent procedure. The Ministry of Environment shall specify the details for biological assessment in generally binding regulations.

2. A biological assessment, pursuant to paragraph 1, is not required if it is already a part of another environmental assessment in accordance with other generally binding regulations and at the same time meets the requirements of a biological assessment.

3. The natural scientific study and the biological assessment, according to paragraphs 1 and 2, are used as supporting material in decisions made by the nature conservation authorities.

4. If this Act or other regulations, or the results of the biological assessment, according to paragraph 1 or 2, necessitates other compensatory nature protection measures (such as the building of technical barriers, the transfer of plants or animals), the investor must implement these measures at his own expense. The nature conservation authorities shall decide the extent and necessity of such measures.

§ 68 - Measures for the Improvement of the Natural Environment

1) Owners and tenants of land shall, if it is within their power, improve the condition of the preserved natural environment and landscape for the purpose of preserving the diversity of natural species and systems of ecological stability.

2) Nature conservation authorities or community authorities may conclude written agreements with owners or tenants of land to take care of the land for nature conservation reasons.

3) The nature conservation authorities are entitled to improve the natural environment and landscape, according to paragraph 1, themselves or through another person if the owner or tenant of the land does not respond to the appeal of the nature conservation authorities and does not do so himself, especially if this involves the protection of particularly protected parts of nature and significant landscape components.

4) The owners and tenants of the land must suffer interventions pursuant to paragraph 3, and enable persons, who are carrying them out, to enter the land. The nature conservation authorities must inform the owners or tenants of the extent and date of the intervention in advance. The nature conservation authority, which ordered these interventions, is responsible for any damage the owners or tenants may suffer in connection with these interventions. This does not effect the responsibility of persons carrying out these interventions.

§ 69 - Financial Contributions

1) A financial contribution may be granted to owners or tenants of the involved lands for taking care of these lands pursuant to § 68, paragraph 2, provided they refrain from certain activities, or carry out agreed-upon work for the improvement of the natural environment.

2) A financial contribution may also be granted to a person who carries out compensatory protective measures according to § 49 or § 50.

3) Nature conservation or community authorities on the basis of a written agreement may grant the financial contribution, pursuant to paragraph 1. The Ministry of Environment shall specify details concerning the conditions for granting a contribution, as well as the details of the pertinent agreement, in a generally binding regulation.

4) The contribution, pursuant to paragraph 1, may also be granted from the State Environment Fund of the Czech Republic.

Chapter Three

§ 70 - The Participation of Citizens

1) The protection of nature, pursuant to this Act, is carried out with the direct participation of citizens through their civic associations and voluntary groups or organizations attached to the nature conservation authorities.

2) The locally appurtenant organizational unit of a civic association, the main mission of which according to its statutes is the conservation of nature, provided it is a legal entity, (hereinafter "civil association") is entitled to demand that the respective state administrative bodies inform it in advance of all the intended interventions and initiated administrative proceedings which could involve nature and landscape protection interests, protected according to this Act.

3) Under the conditions and in cases pursuant to paragraph 2, a civic association is entitled to participate in administrative proceedings, provided it notifies the state administrative body which initiated the administrative proceedings, of its participation within 8 days of the date on which these proceedings were started; in this case the civic associations role is that of a participant of the proceedings.

§ 71 - The Participation of Communities

1) Through their authorities, communities involve themselves in the protection of nature and the landscape in their territorial district. They in particular advance their opinion on the establishment and establishment of particularly protected areas, memorable trees and their protective zones.

2) The nature conservation authorities must co-operate with communities, submit supporting materials and information to them, give them the necessary explanations for nature interventions and for methods of protecting the environment,

particularly if these interventions could negatively effect the environment in the community or limit the execution of the community inhabitants rights.

3) The community authorities are participants in administrative proceedings within their territorial district, pursuant to this Act, provided they do not decide the same matter in the role of a state administrative body.

§ 72 - The Right to Information on Nature and Landscape Protection

1) The authorities which carry out the state administration of nature conservation according to this Act must, within the scope of their activities, keep records of information, which must include:

- a) directive administrative acts in nature conservation;
- b) proposals for initiating administrative proceedings;
- c) issued decisions, including decisions made in appellate or revision proceedings;
- d) all written and other supporting materials for the issued decisions, particularly minutes and records of meetings, testimony of witnesses, written evidence, expert opinions;
- e) proposals for proclaiming particularly protected components of nature, and the statements of the owners or tenants of the involved land to these intentions (§ 40 and § 55);
- f) other important information known to the authorities, related to the execution and management of nature conservation, particularly information on the condition and development of the natural environment.

§ 73 - Science and Research

1) The nature conservation authorities co-operate with professionally qualified legal and physical persons in the protection of nature and the landscape, particularly in the proclamation and protection of particularly protected parts of nature, or in the abandonment of their protection, or in the preparation of plans for the care of particularly protected areas.

2) The nature conservation authorities may order or permit an expert opinion concerning the protection of nature and the landscape and the research of particularly protected areas, to be carried out only by those physical or legal persons who are qualified to do so.

§ 74 - Co-operation in Nature Conservation

1) The nature conservation authorities actively participate in international co-operation in nature conservation, meet the obligations ensuing from international conventions, programmes and project adopted for the conservation of nature. Within the scope of its activities, the Ministry of Environment may issue a generally binding regulation to ensure the tasks ensuing from international obligations.

2) The nature conservation authorities shall pay particular attention to the proclamation and protection of territories adjoining particularly protected areas in the Slovak Republic and in the neighboring countries of the Czech Republic, as well as to the protection of animals, freely passing across the state borders, and to natural transboundary resources in the Czech Republic.

PART SIX - Authorities and State Administration in Nature Conservation

Chapter One

§ 75 - The Nature Conservation Authorities

1) The nature conservation authorities are:

- a) communities;
- b) district offices;
- c) administrations of national parks and protected landscape areas;
- d) the Czech Environment Inspection;
- e) the Ministry of Environment.

2) The nature conservation authorities carry out the state administration of nature and landscape protection according to this Act.

§ 76 - The Scope of Activities of Communities

1) Communities:

- a) participate in the protection of nature and the landscape in their territorial districts according to § 68, paragraph 2, § 69, paragraph 2 and § 71;
- b) with the exception of national parks, permit the felling of wood species, and are entitled to stop, limit or prohibit the felling of wood species according to § 9, with the exception of the territories of national parks, and must keep records of lands suitable for compensatory planting, pursuant to § 9, paragraph 2;
- c) keep records of publicly accessible roads, trails and paths in their territorial district, pursuant to § 63, paragraph 1.

2) Authorized community offices:

- a) register significant landscape components, pursuant to § 6;
- b) issue binding opinions according to § 4, paragraph 2, to interventions in registered landscape components;
- c) assess and demarcate local systems of ecological stability;
- d) proclaim memorable trees and their protective zones according to § 46, paragraph 1, and approve their tending according to § 46, paragraph 2;

- e) approve the establishment or disestablishment of roads, trails and paths according to § 63, paragraph 1;
- f) impose fines for misdemeanors according to § 87, paragraph 1 and for illegal conduct according to § 88, paragraph 1 outside the territory of national parks and protected landscape areas.
- 3) The scope of activities of authorized district councils, according to paragraph 2, does not apply to the territory of national parks, protected landscape areas, national nature reserves, nature reserves, national natural monuments and natural monuments.
- 4) Statutory towns carry out the state administration of nature conservation in the extent entrusted to communities, authorized community councils and district councils (§ 77).
- 5) The state administration in the Capital City of Prague is carried out by
 - a) Magistrate Office of the Capital City of Prague within the scope of activities of district offices pursuant to § 77,
 - b) municipal districts within the scope of activities of community offices pursuant to § 76, paragraph 2, letters a) to d).

§ 77 - The Scope of Activities of District Offices

- 1) District offices prepare the policy for nature and landscape protection in the district and carry out the state administration of nature conservation in their territorial district, provided another nature conservation authority is not authorized to do so (§ 76, § 79 and § 80) and if it does not involve the territory of a national park or protected landscape area (§ 78).
- 2) District offices also keep excerpts from the central files on nature conservation (§ 42 and § 47) within their territorial district. For important reasons they may extend their scope of activities to include community matters pursuant to § 76, paragraph 1, letter b), as well as matters pursuant to § 76, paragraph 2 within the scope of activities of the authorized community councils. They impose fines according to this Act, provided another nature conservation authority is not authorized to do so (§ 76, paragraph 2, letter f) and § 78, paragraph 2).
- 3) District offices may issue a public notice according to § 5, paragraph 1 of this Act to limit or prohibit disturbing activities, a public notice on the establishment of a national park according to § 12, paragraph 3, a public notice on the establishment of a nature reserve according to § 33, and a public notice on the establishment of a natural monument according to § 36.

§ 78 - The Scope of Activities of Administrations of National Parks and Protected Landscape Areas

- 1) The state administration of nature conservation and landscape protection on the territory of national parks, protected landscape areas and their protective zones, is carried out by the administrations of national parks and protected landscape areas, (hereinafter "administrations"), provided a community, the Ministry of Environment or the Czech Environment Inspection is not authorized to do so by this Act. A list of the administrations on the territory of the Czech Republic and their seats is given in the annex to this Act. The administration of the National Park Sumava is at the same time the administration of the Protected Landscape Area Sumava.
- 2) Administrations keep excerpts from the central files on nature conservation (§ 42 and § 47) within their territorial district. For important reasons they may extend their scope of activities to include community matters according to § 76, paragraph 1, letter b) and paragraph 2, letters c) to e); they settle and impose fines according to this Act for misdemeanors and illegal conduct on the territory of national parks and protected landscape areas. They are authorized to issue a public notice on the establishment of nature reserves (§ 33 and natural monuments (§ 36).
- 3) Administrations at the same time fulfil the tasks of professional nature conservation organizations within their territorial districts. These tasks include stocktaking and natural scientific surveys, documentation and investigations of nature conservation activities, co-operation with research and scientific institutions, watch services, informative and popular educational activities.
- 4) On the territory of national parks, national park administrations also carry out activities, entrusted in accordance with separate regulations to district councils, communities and authorized district councils in the sphere of forestry, hunting, fishing and the protection of agricultural land resources.
- 5) National park administrations propose plans for the care of national parks (§ 18) and issue public notices on the visitors. Rules for a national park (§ 19) and on charges in a national park (§ 24, paragraph 3) grant permission to carry out research activities in national parks (§ 73) and establish councils (§ 20).

§ 79 - The Scope of Activities of the Ministry of Environment

- 1) The Ministry of Environment is the central state administrative body for nature conservation in the Czech Republic.
- 2) The Ministry of Environment:
 - a) prepares prognoses and policy for the nature conservation strategy in the Czech Republic
 - b) co-ordinates state scientific and research activities in the sphere of nature and landscape protection
 - c) co-operates with the Ministry of Education of the Czech Republic in the sphere of nature and landscape protection.
- 3) The Ministry of Environment also:
 - a) demarcates and assesses supra-regional system of ecological stability;
 - b) issues public notices with which it proclaims national nature reserves (§ 28) and national natural monuments (§ 35), particularly protected plant and animal species (§ 48) and mineral species (§ 51), and which specify the detailed conditions for their protection;
 - c) demarcates nature conservation zones of national parks (§ 17) and of protected landscape areas (§ 27);
 - d) approves plans for the care of national parks (§ 18), national nature reserves and national natural monuments (§ 38) and

- plans for the care of protected landscape areas (§ 27);
- e) ensures rescue programmes (§ 52) for critically endangered plant and animal species
 - f) grants exceptions from the conditions for protecting particularly protected, critically and severely endangered plant and animal species, and exceptions from the conditions for protecting minerals (§ 56);
 - g) approves certain activities in national nature reserves and national natural monuments (§ 44) if it does not transfer this authority to a district council or administration;
 - h) is the appellate authority for appeals against decisions made by a district council or administration
 - i) performs the function of a central state administrative body in matters concerning forestry and national parks and approves forestry plans on the territory of national parks and their protective zones;
 - j) issues permission for the export of palaeontologic finds (§ 11, paragraph 3), the export of particularly protected plants, animals and minerals (§ 53), for research work in national nature reserves, national natural monuments, and for research on critically or severely endangered plant and animal species (§ 73);
 - k) approves the export or import of plants and animals protected by international conventions (§ 5, paragraph 6)
 - l) carries out the activities of a nature conservation authority on lands destined for state defense purposes if not otherwise determined by this Act (§ 91);
 - m) makes known its intention to proclaim a national park, a protected landscape area or a national nature reserve (§ 40, paragraph 1)
 - n) directs the activities of the administrations and carries out other tasks specified by this Act.

§ 80 - The Scope of Activities of the Czech Environment Inspection

- 1) The Czech Environment Inspection (hereinafter "Inspection") supervises the manner in which the state administrative bodies, physical and legal persons observe the provisions of legal regulations and decisions concerning the protection of nature and the landscape. The Inspection determines cases of jeopardy or damage to nature and the landscape, their causes and the persons responsible for them. The Inspection as well as the District Offices and Administrations shall be authorized to request proof of origin pursuant to § 54, impose measures pursuant to § 66 and confiscate illegally held specimens pursuant to § 89.
- 2) In cases of imminent damage, the Inspection is entitled to order a limitation or cessation of the harmful activities until the result or causes of the harm are eliminated.
- 3) The Inspection imposes a fine upon legal and physical persons for violating obligations in the sphere of nature and landscape protection according to this Act. The Inspection may initiate proceedings on the imposition of fines only if these proceedings were not initiated by an authorized community council, a district council or by an administration. If an authorized community council, a district council or an administration initiates these proceedings and by the Inspection on the same day, the proceedings shall be conducted by the authorized community council, district council or administration. The Inspection and the authorized community council district council or administration shall inform each other of the commencement of proceedings on the imposition of a fine. The Ministry of Environment shall make a decision on appeals against decisions made by the Inspection.
- 4) Inspectors, who shall prove their identity with an official identification card, carry out the Inspections tasks.

§ 81 - The Nature Guard

- 1) District councils and administrations appoint nature guards, primarily from among voluntary workers. The mission of the nature guard is to check the observation of regulations on nature and landscape protection.
- 2) The nature guard consists of guards and reporters, who are appointed and recalled by the territorially appropriate district council or administration.
- 3) The nature guard is entitled to:
 - a) establish the identity of persons who violate nature conservation regulations;
 - b) impose and collect (ticket) fines for misdemeanors in the sphere of nature conservation;
 - c) enter foreign lands under conditions specified in § 62.
- 4) In cases of imminent danger to interests protected according to Part Two, Part Three and Part Four of this Act, the nature guard is authorized to stop disturbing activities. The nature guard shall immediately inform the territorially appropriate nature conservation authority of the measure it had taken to do so. The nature conservation authority shall confirm, change or cancel this measure within 15 days of the date on which it was issued.

§ 82 - Uniforms and Identification of Nature Conservation Employees

- 1) Employees of administrations and the Inspection may wear nature conservation uniforms.
- 2) The Ministry of Environment shall specify the details concerning the introduction and use of uniforms and the identification of nature conservation employees in a generally binding regulation.

Chapter Two

§ 83 - Proceedings in Matters of Nature Conservation

- 1) The nature conservation authorities shall invite all the participants known to them to attend oral proceedings. In cases when a decision of the nature conservation authority may effect the natural conditions in the territorial districts of several

communities, the nature conservation authority shall announce the date and subject of the verbal proceedings also in a public notice, posted in these communities.

2) If oral proceedings are ordered, the nature conservation authorities must deliver the summons to participate in these proceedings to the participants 15 days, in complicated cases 13 days, before the date on which the oral proceedings are to take place. The public notice of these oral proceedings must be posted on the same date.

3) The nature conservation authority shall decide simple matters immediately. It shall decide other matters within 60 days of the date on which the proceedings were started, in particularly complicated cases, within 90 days of the date on which the proceedings were started.

§ 84

Changes and Cancellation of Permission

1) A nature conservation authority may at its own instance, or upon a submitted proposal, change or cancel a permission it issued, after the proceedings were concluded:

- a) if there is a change in the facts that were decisive for issuing permission;
- b) if so required by the interests of nature and the landscape protected by this Act, particularly if there is danger of an imminent environmental detriment;
- c) if the holder of the permission repeatedly violates the conditions or obligations specified therein by the nature conservation authority;
- d) if the holder of the permission does not make use of the permission for no special reason for a period exceeding two years;
- e) if in the course of the permitted activities the provisions of this Act are violated, or if substantial damage to other authorized interests concerning the protection of the natural environment is caused by these activities.

2) The Ministry of Environment may reserve its right to change or cancel a permission, issued by a lower ranking nature conservation authority, for reasons specified in paragraph 1, letter b) or e).

§ 85 - State Supervision in Nature Conservation

1) District councils and administrations supervise whether the interests of nature and landscape protection are endangered within their territorial district, supervise the observance of this Act and procedural regulations, and within the scope of their authority they impose measures to remedy the determined faults. The authorities in particular supervise how the issued decisions and binding opinions in the sphere of nature and landscape protection are observed, as well as the fulfillment of the obligations of physical and legal persons ensuing from the regulations for the protection of nature and the landscape, the ensurance of the conditions for the protection of particularly protected parts of nature, and the observance of the protection of significant landscape components, the preparation and implementation of plans, projects and measures for the restoration of a system of ecological stability.

2) Within the scope of its supreme supervision in nature conservation, the Ministry of Environment supervises how the district councils, administrations, the nature guard, physical and legal persons, carry out the provisions of this Act and procedural regulations. The Ministry of Environment in particular supervises the observance of the decisions and binding opinions made by the nature conservation authorities, the fulfillment of obligations ensuing from this Act on the Protection of Nature and the Landscape, the preparation and implementation of plans for the care of particularly protected areas and plant and animal rescue programmes, the observance of the conditions for the protection of national parks, protected landscape areas, national nature reserves and national natural monuments. If the Ministry of Environment determines any faults, it shall impose the necessary measures to remedy them.

PART SEVEN - Responsibilities in the Sphere of Nature Conservation

§ 86 - The Removal of the Consequences of Unauthorized Interventions

1) Whosoever damages, destroys or unwarrantedly changes parts of nature or the landscape, protected according to this Act, must restore them to their original condition if this is possible and purposeful. The nature conservation authorities decide the possibility of and conditions for restoring the original conditions.

2) If the restoration to the original conditions is not possible or purposeful, the nature conservation authorities may order the liable person to carry out an adequate compensatory remedy. The purpose of this remedy is to compensate at least partly for the consequences of unwarranted behavior.

3) The imposition of an obligation to restore parts of nature to their original condition, or the compensatory remedy, does not effect liability for damages according to other regulations, nor retributions for misdemeanors, illegal acts or criminal offence.

§ 87 - Misdemeanors

1) The nature conservation authorities shall impose a fine of up to 5 000, - Czechoslovak Crowns upon a physical person who commits a misdemeanor in that he:

- a) unwarrantedly changes or disturbs the preserved condition of nature in a particularly protected area, or unwarrantedly changes the conditions of a memorable tree;
- b) unwarrantedly intervenes in the natural development of particularly protected plant species;
- c) injures, holds without permission particularly animals, or otherwise unwarrantedly intervenes in their natural development;
- d) does not enable persons, authorized according to § 62 or § 68, paragraph 4, and § 81, to enter land he owns or uses;

- e) does not fulfil the obligation of notification prescribed by this Act;
 - f) carries out activities prohibited in a protective zone destined to protect particularly protected parts of nature;
 - g) does not prove in the prescribed manner, pursuant to § 54, paragraph 1, the origin of a particularly protected plant or animal or a plant or an animal protected pursuant to international conventions or the special legal regulation, ^{4a)};
 - h) does not carry out the imposed compensatory planting of wood species according to § 9;
 - i) does not observe limited or prohibited entry, declared according to § 64;
 - j) does not fulfil one of the obligations concerning a palaeontologic find according to § 11, paragraph 1.
- 2) The nature conservation authorities shall impose a fine of up to 10 000, - Czechoslovak Crowns upon a physical persons who commits a misdemeanor in that he:
- a) destroys a part of nature in a particularly protected area, or destroys facilities serving the protection, marking and equipment of a particularly protected area;
 - b) destroys particularly protected plants listed in the category of endangered species, or causes them to perish by an unwarranted intervention in their environment;
 - c) kills particularly protected animals listed in the category of endangered species, or causes them to perish by an unwarranted intervention in their environment, or catches particularly protected animals;
 - d) endangers beyond the necessary extent particularly protected parts of nature in the course of killing pests;
 - e) damages or unwarrantedly cuts wood species which grow outside forests;
 - f) carries out a harmful intervention in a significant landscape component without the approval of the nature conservation authorities;
 - g) impairs the nature of the landscape by violating the obligations specified in § 12, paragraph 2;
 - h) damages or destroys a cave or its part;
 - i) violates the provisions of the Visitor Rules of a national park, issued according to § 19.
- 3) The nature conservation authorities shall impose a fine of up to 50 000, - Czechoslovak Crowns upon a physical person who commits a misdemeanor in that he:
- a) damages or destroys a memorable tree or a particularly protected area or its part;
 - b) kills a particularly protected animal of a critically or severely endangered species, or causes it to perish by intervening in its environment;
 - c) destroys a particularly protected plant of a critically or severely endangered species, or causes it to perish by intervening in its environment;
 - d) without permission cuts or seriously damages a group of wood species which grow outside a forest;
 - e) does not restore a damaged part of nature, protected according to this Act, to its original condition, or does not remedy this condition according to § 86, nor carries out compensatory measures according to § 67, paragraph 4;
 - f) does not fulfil the obligation as owner or tenant of land to refrain from negative interventions on land prepared to be proclaimed particularly protected according to § 40, paragraph 4;
 - g) does not proceed in a manner that would prevent the excessive perishing of plants and animals according to § 5, paragraph 3;
 - h) violates the limitation or prohibition of activities declared according to § 66;
 - i) unwarrantedly trades in individuals of species the trade of which is limited or prohibited according to international conventions or illegally exports particularly protected species; if a misdemeanor has been committed pursuant to the special regulation, ^{4a)} this provision shall not be employed;
 - j) unwarrantedly collects or damages particularly protected minerals;
 - k) violates the conditions prescribed for the protection of temporarily protected areas (§ 13);
 - l) does not meet the conditions for an exception, granted according to § 43 and § 56, or the conditions for an approval according to § 44 and § 57;
 - m) seriously damages or destroys a significant landscape component.
- 4) A fine of up to double the amount may be imposed for misdemeanors in the protection of particularly protected plants and animals, wood species and memorable trees, if they were committed in particularly protected areas.
- 5) The proceeds from fines imposed by an authorized community council or district council are an income to the budget of the authority, which imposed the fine. The proceeds from fines imposed by administrations and the Inspection are divided in accordance with the provisions of a separate Act.

§ 88 - Fines Imposed Upon Physical and Legal Persons in the Execution of their Business Activities

- 1) The nature conservation authorities shall impose a fine of up to 500 000, - Czechoslovak Crowns upon legal or a physical persons who, in the execution of their business activities, commit an illegal act in that they:
- a) damage a part of nature in a particularly protected areas, unwarrantedly change or endanger its preserved condition;
 - b) damage or destroy a memorable tree;
 - c) without permission damage or destroy a wood species or a group of wood species which grow outside forests;
 - d) unwarrantedly interfere with the natural development of particularly protected plant species;
 - e) injure, hold without permission particularly protected animals, or otherwise unwarrantedly interfere with their natural development;

- f) carry out activities prohibited in a protective zone destined to secure particularly protected parts of nature;
 - g) do not enable persons, authorized according to § 62 or § 68, paragraph 4 and § 81, to enter lands they own or use;
 - h) do not fulfil the obligation of notification pursuant to this Act, or do not fulfil the obligation of compensatory planting pursuant to § 9;
 - i) harmfully interfere with a significant landscape component without the approval of the nature conservation authorities;
 - j) violate the conditions determined for the protection of temporarily protected areas;
 - k) violate the limitations or prohibition of entry according to § 64, or violate the provisions of the Visitors Rules of a national park;
 - l) damage or destroy a cave or its part;
 - m) do not fulfil an obligation concerning palaeontologic finds according to § 11, paragraph 1;
 - n) do not demonstrate in a prescribed fashion pursuant to § 54 the origin of a particularly protected plant or animal or a plant or an animal protected pursuant to international conventions or a special regulation. ^{4a)}
- 2) The nature conservation authorities shall impose a fine of up to 1 000 000, - Czechoslovak Crowns upon legal or physical persons who commit an illegal act in the execution of their business activities in that they:
- a) impair the nature of the landscape by not fulfilling the obligations specified in § 12, paragraph 2;
 - b) seriously damage or destroy a significant landscape component;
 - c) destroy a part of nature in a particularly protected area, or destroy facilities serving the protection, marking and equipment of particularly protected areas;
 - d) directly destroy an individual plant or a particularly protected plant species, or by an unwarranted interference in their development;
 - e) directly kill particularly protected animals or cause their death by an unwarranted interference in their environment;
 - f) beyond the necessary extent endanger particularly protected parts of nature during interventions against pests, plant diseases, weeds and during hygienic measures;
 - g) do not restore a damaged part of nature, protected according to this Act, to its original condition, or do not carry out a remedy according to § 86, or adequate compensatory measures according to § 67, paragraph 4;
 - h) do not fulfil the obligations of an owner or tenant of the land to refrain from negative interference with land prepared to be proclaimed particularly protected according to § 40, paragraph 4;
 - i) do not proceed in a manner that would prevent the excessive perishing of plants and animals, pursuant to § 5, paragraph 3, or unwarrantedly collect or damage particularly protected minerals;
 - j) violate the limitation or prohibition of activities defined in § 66;
 - k) unwarrantedly trade in individuals of species, the trade of which is limited or prohibited according to international conventions, or illegally export particularly protected species; if a misdemeanor has been committed pursuant to a special regulation, ^{4a)} this provision shall not be employed;
 - l) do not ensure the protection of palaeontologic finds against damage, destruction or theft according to § 11;
 - m) exceed the inevitable extent of damage they cause in generally or particularly protected parts of nature on territories serving the interests of the defense of the state according to § 90, paragraph 2.
- 3) When establishing the amount of a fine, the seriousness of the illegal act and the extent of imminent or caused impairment to nature and landscape protection are taken into account.
- 4) A fine pursuant to paragraphs 1 and 2 may be imposed at the latest three years following the day when the offence was committed.
- 5) A fine is payable within 30 days of the date on which the decision to impose a fine came into legal force.
- 6) The imposition of a fine upon a legal person does not effect his responsibility or the responsibility of his employees, pursuant to separate regulations.
- 7) The proceeds from fines, imposed by an authorized community council, are an income to the budget of the authority, which imposed the fine. The proceeds from fines imposed by administrations or the Inspection are divided in accordance with the provisions of a separate act.

§ 89 - The Withdrawal of Unwarrantedly Held Individuals of Particularly Protected Species

- 1) The nature conservation authorities may withdraw unwarrantedly kept individual plants or animals of particularly protected species. A specimen of a particularly protected plant or animal or a plant or animal protected pursuant to international conventions may be also confiscated if the holder of such specimen fails to demonstrate the origin of such specimen pursuant to § 54 par. 1 or if trade in such specimens is limited or prohibited pursuant to international conventions. In case of confiscation on the basis of a special legal regulation ^{4a)} this provision shall not be employed.
- 2) The nature conservation authorities must issue the decision on a withdrawal, pursuant to paragraph 1, within 15 days of the date on which the withdrawal was made. If they do not do so the withdrawal is invalid.
- 3) The state shall become the owner of a withdrawn plant or animal. The Ministry of Environment may specify the details of this in a generally binding regulation.

PART EIGHT- Common, Temporary and Final Provisions

§ 90 - Common Provisions

Czech Republic Nature and Landscape Protection Act as of February 19th 1992

- 1) The general regulations on administrative proceedings do not apply to proceedings pursuant to § 11, paragraph 3, §§ 17, 18, 24, 27, 38, 40, § 46, paragraph 2, §§ 52, 53 and 69 of this Act. The suspensor effect of an appeal is ruled out in the case of a decision on the establishment of a temporarily protected area according to § 13, on the limitation and cessation of activities according to § 66, and on the withdrawal of individual plants and animals of particularly protected species according to § 89.
- 2) The provisions of § 4, paragraphs 2 and 3, §§ 6, 8, 12, § 40, paragraph 4, § 49, paragraph 1, § 63, § 68, paragraph 3, and § 70 of this Act do not apply to territories serving the interests of the defense of the state. In these cases any damage to nature for reasons of state defense must not exceed an inevitable extent.
- 3) In mining activities, carried out in the extraction area of exclusive mineral deposits, the obligations defined in § 10, § 11, paragraphs 1 and 2, and § 51, paragraph 2, may be applied only in agreement with the person authorized to carry out mining activities according to separate regulations.
- 4) The Act on the Protection of Nature and the Landscape and the regulations issued for the execution of this Act are special regulations in relation to regulations on forests, water, territorial planning and on the building code, on the protection of mineral wealth, the protection of agricultural land resources, hunting and fishing.
- 5) State nature reserves, proclaimed according to § 4, paragraph 3 of law No. 40/1956 on State Nature Conservation, shall be transferred to the category of national nature reserves (§ 28), nature reserves (§ 33), national natural monuments (§ 35), or natural monuments (§ 36). The Ministry of Environment shall define the categorization of these territories in generally binding regulations.
- 6) Protected localities, protected parks and gardens and protected research areas, proclaimed according to § 5 of law No. 40/1956, shall be proclaimed national natural monuments or natural monuments (§ 35 and § 36). The Ministry of Environment shall define the categorization of these territories in a generally binding regulation.
- 7) Protected natural formations and protected natural monuments, proclaimed according to § 6 of law No. 40/1956, are herewith proclaimed natural monuments (§ 36) if they are not classified in the category of national nature reserves (§ 28), nature reserves (§ 33) or national natural monuments (§ 35) by the Ministry of Environment in a generally binding regulation.
- 8) Trees and groups of trees, proclaimed protected natural formations or protected natural monuments according to § 6 or law No. 40/1956, are herewith proclaimed memorable trees (§ 46).
- 9) National parks and protected landscape areas, proclaimed according to § 8 of law No. 40/1956, shall continue to be protected as national parks (§ 15) and protected landscape areas (§ 25).
- 10) Areas of quiet, proclaimed by generally binding regulations issued by the former District National Committees, are herewith proclaimed natural parks (§ 12).

§ 91 - Temporary Provisions

In the extent defined in § 78, paragraph 4, the Administration of the National Park Sumava shall carry out the state administration of forestry in military forests on the territories of the National Park Sumava where the reasons for proclaiming them military forests have passed.

§ 92 - Provisions of Cancellation

The following legal regulations are hereby cancelled:

- 1) Law No. 40/1956 on State Nature Conservation, in the wording of Czech National Council law No. 146/1971, Czech National Council law No. 137/1982, Czech National Council law No. 96/1977 and Czech National Council law No. 65/1986.
- 2) § 2, paragraph 1, letter f) of Czech National Council law No. 68/1990 on the Use of the National Emblem and the State Flag of the Czech Republic.
- 3) § 3, § 5, paragraph 1, and § 7 of Czech Government Decree
- 4) § 3, § 5, paragraph 1, and § 7 of Czech Government Decree No. 164/1991, which establishes the National Park Podyjí and specifies the conditions for its protection.
- 5) § 3, § 5, paragraph 1, and § 7 of Czech Government Decree No. 165/1991, which establishes the Giant Mountain National Park and specifies the conditions for its protection.
- 6) Public Notice No. 142/1980, which specifies the details for the protection of trees growing outside forests, the proceedings for their exceptional felling, and the manner of utilizing the wood from these trees.
- 7) Public Notice No. 131/1957 of the Gazette, concerning the voluntary workers of the state nature conservation authorities (conservators and reporters).
- 8) Public Notice No. 228/1959 of the Gazette, concerning the records on protected parts of nature and compensation for property damage caused by limitations specified in the conditions for protection.

§ 93 - Legal Force

This Act comes into legal force on July 1, 1992.

ANNEX to Act No. 114/1992: List of National Parks and Protected Landscape Areas in the Czech Republic, Related to the Provisions of # 78, paragraph 1, of the Act.

ANNEX I - Symposium Program and Excursion

Wednesday, 28 May

17:00 – 20:00 Karel Vancura Arrival of participants, transfer to the symposium venue

Thursday, 29 May

Opening Part

09:00 – 09:55 Peter Herbst Opening of the symposium (Coordinator IUFRO UNIT 6.13)
Jaromir Vasicek Welcome address (Deputy Minister for Forestry)
H. Schmutzenhofer Welcome address and IUFRO presentation
Presentation

Session I – Forest Policy

10:10 – 12:30 Presentations, Discussion

Session II – Questionnaire assessment

14:15 – 15:00 Katerina Trejbalova Questionnaire and discussion

15:30 – 18:45 Klement Rejsek Short visit to the Faculty of Forestry and Wood Processing,
Mendel’s University of Agriculture and Forestry in Brno

Friday, 30 May

Session III - Sustainable Development, Nature Protection, Harmonization of Leg. with the EU
8:10 – 10:10 Presentations, Discussion

Session IV - Forest Owners

10:30 – 12:10 Presentations, Discussion

Session V – Legislation General

13:40 – 17:30 Presentations, Discussion

17:30 – 18:15 Franz Schmithüsen Closing remarks

19:15 Farewell party Folk Hammer Dulcimer Band “Kunovjan”

Saturday, 31 May – Excursion

8:30 – 21:00 Michal Hrib Whole day excursion
Palava Protected Landscape Area
Mikulov, Castle Cellar
Lednice – Valtice Area

Sunday, 1 June

07:15

Departure of participants

10:00 – 10:30

Arrival of bus to Prague, end of the meeting

Excursion to Southern Moravia

PALAVA and LEDNICE - VALTICE AREA with a framework of forests, meadows and ponds, ingeniously complemented with the romantic cathedrals and pavilions crowning the Lednice and Valtice castles. Above this area soar the Pavlov hills, a Southern Moravian dominant providing a splendid view of the entire region, the Southern Moravian Sea, and places where humans have been living since prehistoric times.

- Palava protected landscape area is a UNESCO biosphere reserve
- Lednice-Valtice area is registered in the World Heritage List

Protected Landscape Area and Biosphere Reserve PALAVA

In 1976, the Palava Protected Landscape Area (PLA) was declared in the countryside around the Pavlovské Hills in South Moravia. Palava can be translated into English as “Sun-baked Country”, which refers to the sun-heated limestone rocks of the Pavlovské Hills and the dry loess slopes of the rolling countryside of this region.

The flora of the Pavlovské and Milovice Hills reflects the region's diverse natural conditions and its history. There is clear evidence of the individual phases of development of the

flora at the end of the last Ice Age and in the Postglacial. Human settlement, which has been proved at least since the Palaeolithic, has also been of a critical influence. In phyto-sociological terms, the plant communities of the Biosphere Reserve belong to the Pannonian vegetation that reaches to South Moravia from the Hungarian Plain. The area is characterized by the occurrence of plant species of sub-Mediterranean and Pontic-south-Siberian origin.

The vegetation is highly diverse because of the complex environment, rich flora, and long-term human impacts. The lowland vegetation zone comprises floodplain forests, while the colline zone has forest, steppe-forest, steppe, and rock communities.

The Palava BR is famous by archeological sites with remains of camps of mammoth hunters, near Dolni Vestonice and Pavlov. Numerous functional and decorative objects of the Pavlovian culture have been found in these localities, which are more than 25,000 years old. The artefacts include the world-famous Vestonicka venuse woman sculpture.

Nové Mlýny

In the 1970s and 1980s a system of three large reservoirs called the Nové Mlýny Waterworks (NMW) was built as part of water management adjustments on the lower reaches of the rivers Dyje, Svratka and Jihlava. During construction of the waterworks, not only floodplain forest was submerged, but also unique alluvial meadows, meanders, and permanent and periodical ponds. The village of Mušov was totally destroyed and flooded except for the Church of Saint Leonard, which is today the dominant feature of a small island in the centre of the reservoir.

Protected Town Reserve Mikulov

The approach to historical Mikulov from any direction will present you with a unique panorama and the silhouette of the renaissance chateau, Holy Hill and Goat Hill. The medieval historic centre was declared a protected town area in 1952. Of special interest is the Giant Wine Barrel and the wooden beam wine-press in the chateau cellars. Mikulov is the starting point for the instructive wine trail, which takes visitors through Pálava and shows them the wine culture and tradition of Mikulov's Wine District.

Nature trail through floodplain forest, programme for revitalisation of floodplain forests

The floodplain forests in southern Moravia were negatively impacted in particular by water-management alterations of the rivers Morava and Dyje in the 1970s and 80s. Although these alterations prevented the previously common floods on the lower reaches of the rivers, they also reduced the level of underground water. It has induced a change in hydrological conditions, which is expressed by a reduction in the vitality of forest stands and sharp increase in salvage felling.

Nature trail “Floodplain Forest” - the nature trail has 13 points (13 thematic boards + 2 plans – introductory one with map). The overall length of the nature trail Floodplain Forest is 6.15 km. The individual stops do not only relate to forestry management – but attempt to present the floodplain forest in broader contexts. The six commercial important timber species – common oak, European white elm, narrow-leaved ash, common hornbeam, small-leaved linden and black walnut – are presented separately. In the context of nature protection, information is given about the return of the European beaver to south Moravia and the repatriation of certain endangered species of plants and animals to restored ponds in the floodplain forest. The history of the oldest human inhabitation in the floodplain area is mentioned as well.

The system of five ponds (Nesyt, Hlohovecký, Prostřední, Mlýnský and Zámecký) was built back in the 15th century. Through extensive landscaping in the first half of the nineteenth century this area was incorporated into the complex of the princes' Lednice-Valtice area.

The nature trail is the contribution of the state enterprise Forests of the Czech Republic to the development of tourism in the Lednice-Valtice area, which is on the UNESCO World Cultural and Natural Heritage List.

Annex II - List of Participants and Authors of Papers

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ANNEX III

The IUFRO Research Group 6.13.00 Forest Law and Environmental Legislation

HOME PAGE: <http://iufro.boku.ac.at/iufro/iufro.net/d6/hp61300.htm>

The Research Group on Forest Law and Environmental Legislation of the International Union of Forest Research Organization (IUFRO) was established in 1981 during the XVIIth World Congress in Kyoto, Japan. At present the group has more than 60 members who contribute voluntarily according to their research interests and within the limits of their available time. More than 140 contributions presenting country case studies law developments in different parts of the world have been submitted. They have been published in a series of research proceedings.

Research papers may be submitted and are printed in English, French, German and Spanish.

If you wish to participate in the work of the IUFRO Research Group 6.13.00, please contact the Coordinator or one of the Deputies:

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ANNEX IV

RESEARCH PUBLICATIONS OF THE IUFRO GROUP 6.13.00 FOREST LAW AND ENVIRONMENTAL LEGISLATION

<http://iufro.boku.ac.at/iufro/iufro.net/d6/hp61300.htm> (IUFRO Unit 6.13)

<http://www.fowi.ethz.ch/ppo/biblio.html> (Chair of Forest Policy and Economics - ETH Zurich)

The following Research Reports and Proceedings have been published:

Schmithüsen, F.; Trejbalova, K.; Vancura, K. [eds.] (2004): Legal Aspects of European Forest Sustainable Development. Proceedings of the 5th International Symposium, Zidlochovice, May 2003. Forestry and Game Management Research Institute, Jiloviste-Strnady, Czech Republic.

Le Master, Dennis C.; Herbst, P.; Schmithüsen, F. [eds.] (2003): Experiences with New Forest and Environmental Laws in European Countries with Economies in Transition. Proceedings of the 4th International Symposium Organised by the IUFRO Research Group 6.13.00, Jaunmokas, Latvia, August 2002. Forstwissenschaftliche Beiträge der Professur Forstpolitik und Forstökonomie, ETH, Zurich, Vol. 29.

Schmithüsen Franz, Iselin Georg, Herbst, Peter [eds.] (2002): Forest Law and Environmental Legislation – Contributions of the IUFRO Research Group 6.13. Proceedings VII. Forstwissenschaftliche Beiträge der Professur Forstpolitik und Forstökonomie der ETH Zürich, Vol. 27, 253 pp.

Schmithüsen, Franz; Iselin; Georg; Herbst, Peter (2002): Bibliography – Contributions IUFRO Research Group Forest Law and Environmental Legislation – September 2002. Chair of Forest Policy and Forest Economics, ETH Zurich, Working Papers International Series 02/03, 35 pp. (also loaded on the two homepages mentioned above)

Schmithüsen Franz, Iselin Georg, Le Master Dennis [eds.] (2002): Experiences with New Forest and Environmental Laws in European Countries with Economies in Transition. Proceedings of the Third International Symposium; Jundola, Bulgaria, June 2001. Jointly Organized by the IUFRO Research Group 6.1300 and the USDA Forest Service; Forstwissenschaftliche Beiträge der Professur Forstpolitik und Forstökonomie der ETH Zürich, Vol. 26, 184 pp.

Schmithüsen, Franz; Iselin, Georg (2000): Bibliography 1984-2000 of Contributions from the IUFRO Research Group Forest Law and Environmental Legislation. Chair of Forest Policy and Forest Economics, ETH Zurich, Working Papers International Series 00/5, 35 pp. *(also loaded on the two homepages mentioned above)*

Schmithüsen Franz, Herbst Peter, Le Master Dennis [eds.] (2000): Forging a New Framework for Sustainable Forestry: Recent Developments in European Forest Law. IUFRO Research Group Forest Law and Environmental Legislation, Selected Contributions. IUFRO World Series. Vol 10. Vienna. 354 pp.

Schmithüsen Franz, Iselin Georg, Herbst Peter [eds.] (2000): Challenges in Implementing Forest and Environmental Legislation in European Countries with Economies in Transition. Proceedings of the International Symposium Jointly Organized by the IUFRO Research Group 6.1300 and the Austrian Ministry of Agriculture and Forestry, Ossiach, September 1999. Forstwissenschaftliche Beiträge der Professur Forstpolitik und Forstökonomie der ETH Zürich, Vol. 23, 111 pp.

Schmithüsen Franz, Herbst Peter and Le Master Dennis [eds.] (1999): Experiences with new Forest and Environmental Laws in European Countries with Economies in Transition. Proceedings of the International Symposium Jointly Organized by the IUFRO Research Group 6.1300 and the Austrian Ministry of Agriculture and Forestry, Ossiach, June 1998.

- Forstwissenschaftliche Beiträge der Professur Forstpolitik und Forstökonomie der ETH Zürich, Vol. 21, 142 pp.
- Schmithüsen, F.; Siegel, W. [eds.] (1997): Developments in Forest and Environmental Law Influencing Natural Resource Management and Forestry Practices in the United States of America and Canada. Selected Contributions submitted to the IUFRO Research Group 6.1300 Forest Law and Environmental Legislation. IUFRO World Series. Vol 7. Vienna. 373 pp.
- Schmithüsen, Franz; Ponce Nava, D. [eds.] (1996): A Selection of Texts of International Conventions and other Legal Instruments Relating to Forests. Working Document prepared for the Independent Expert Group of the Swiss-Peruvian Initiative on Forests. Chair of Forest Policy and Forest Economics, ETH Zurich, Grundlagen und Materialien Nr. 96/2, 172 pp.
- Schmithüsen, Franz [ed.] (1996): Experiences with Public Forest Ownership and Joint Management Systems. Proceedings of the IUFRO Forestry Conference Pushkino, Moscow Region, Russia. Forstwissenschaftliche Beiträge der Professur Forstpolitik und Forstökonomie der ETH Zürich, Vol. 17, 217 pp.
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- Schmithüsen, Franz [ed.] (1992): Forstgesetzgebung/Forestry Legislation/Législation Forestière. Bericht der IUFRO Fachgruppe S6.13-00, Report V. Forstwissenschaftliche Beiträge der Professur Forstpolitik und Forstökonomie der ETH Zürich, Vol. 11, 390 pp.
- Schmithüsen, Franz [ed.] (1990): Forstgesetzgebung/Forestry Legislation/Législation Forestière. Bericht der IUFRO Fachgruppe S4.08-03, Forstwissenschaftliche Beiträge der Professur Forstpolitik und Forstökonomie der ETH Zürich, Vol. 10, 384 pp.
- Schmithüsen, Franz [ed.] (1988): Forstgesetzgebung/Forestry Legislation/Législation Forestière. Bericht der IUFRO Fachgruppe S4.06-04, Forstwissenschaftliche Beiträge der Professur Forstpolitik und Forstökonomie der ETH Zürich, Vol. 6, 262 pp.
- Schmithüsen, Franz [ed.] (1986): Forstgesetzgebung/Forestry Legislation/Législation Forestière. Bericht der IUFRO Fachgruppe S4.06-04, Forstwissenschaftliche Beiträge der Professur Forstpolitik und Forstökonomie der ETH Zürich, Vol. 4, 175 pp.
- Schmithüsen, Franz [ed.] (1984): Forstgesetzgebung/Forestry Legislation/Législation Forestière. Bericht der IUFRO Fachgruppe S4.06-04, Forstwissenschaftliche Beiträge der Professur Forstpolitik und Forstökonomie der ETH Zürich, Vol. 2, 176 pp.



Peter Herbst's farewell to Heinz on behalf of the IUFRO Group 6.13.00



