



Monitoring of Forestry Legislation in Ukraine and EU

Period: January - Mai 2024

The series "Monitoring of Forestry Legislation in Ukraine and EU" provides a brief overview of laws and draft laws of the Verkhovna Rada of Ukraine, adopted Resolutions of the Cabinet of Ministers of Ukraine, entered into force Orders of Ministry of Environmental Protection and Natural Resources of Ukraine and of State Forest Resource Agency of Ukraine, that are important for the sustainable development of forestry.

Further this series includes an overview on recent regulations EU level related to forestry respectively forest land use with relevance for Ukraine.

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Monitoring of Forestry Legislation in Ukraine

Adopted regulatory acts

Governmental Decision dated 23.05.2024 No. 456-p “About the appointment of V. Bachurnyi as Deputy Head of the State Forest Resources Agency of Ukraine for Digital Development, Digital Transformation and Digitalization”.

Mr. Bachurnyi was appointed for a period of no more than 12 months from the date of termination or cancellation of martial law with a probationary period of three months. Before the appointment Mr. Bachurnyi was a Deputy Head of the Forest Analytical and Informational Centre (LIATS) under the responsibility of the State Forest Resources Agency of Ukraine.

Governmental Order dated 02.05.2024 No. 497 “About Amendments to the Decision of the Cabinet of Ministers of Ukraine No. 491 dated 6 June 2011 and the Order of the Cabinet of Ministers of Ukraine No. 521 dated 8 October 2014”.

The Order excluded possibility for State Forest Resources Agency of Ukraine to issue the duplicate of hunter's license and duplicate of the annual control cards for recording game harvested yield as well as violations hunting rules. The objective is to reduce misuse by hunters.

Governmental Order dated 22.04.2024 No. 454 “Certain issues of forestry during the period of martial law and amendments to the Order of the Cabinet of Ministers of Ukraine No. 724 of 12 May 2007”.

The Order defines procedure of conducting forest felling during the period of martial law and 6 months afterwards. It aims to strengthen the state's defence capability through a clearly defined algorithm of interaction between the defence forces and forest users respectively forest owners during the period of

martial law, considering the needs in state defence and security.

Second part of the Order aims to reform felling regulations, with the objective to promote close-to-nature forestry, based on the formation of multi-layered, complex, climate-resistant stands, conservation and enhancement of biodiversity and preservation of the permanently forested area. The Order bans from May 2027 any clear cuts during the final fellings in mountain forests of Carpathian region.

Draft laws submitted for consideration by the Verkhovna Rada of Ukraine

Draft Law on Forest Reproductive Resources, N 9116, registered by the Parliament 17.03.2023, adopted in a first reading (taken as a basis) 23.04.2024.

The draft law aims to increase investments and new technologies in this area. It provides the definition of the basic principles and conditions for the use of forest reproductive materials (mainly forest seeds and planting material), the controlling procedures as well as the harvesting and sale in terms of labelling and packaging, particularly for trade purposes. It aims to comply with the requirements of EU regulations, primarily Council Directive 1999/105/EC of 22 December 1999.

Draft Law on Amendments to the Criminal Code of Ukraine and the Code of Ukraine on Administrative Offences to Improve Liability for Offences in the Field of Forestry and Combating Illegal Timber Trafficking, No. 3562-IX, registered by the Parliament 01.09.2023, adopted in a first reading (taken as a basis) 09.05.2024.

The draft law aims to reduce violations related to unapproved felling and transport of trees, shrubs and reed harvesting and defines corresponding penalties for substantial damage caused.

In addition, it is proposed to expand the number of authorised persons to draw up

administrative protocols for illegal felling, damage and destruction of forests as well as transportation, storage, sale of trees, shrubs or timber whose legal origin is not confirmed.

Monitoring of forestry related legislation in EU

Adopted regulatory acts

Commission Implementing Regulation (EU) 2024/1281 of 7 May 2024 amending Implementing Regulation (EU) 2020/1208 on structure, format, submission processes and review of information reported by Member States pursuant to Regulation (EU) 2018/1999 of the European Parliament and of the Council.

The Regulation amended requirements to reporting on greenhouse gas inventory where forest and forestry is important component.

Directive (EU) 2024/1203 of the European Parliament and of the Council on the protection of the environment through criminal law and replacing Directives 2008/99/EC and 2009/123/EC as of 11.04.2024, published 30.04.2024, entered into force.

The aim of the directive is to combat environmental threats more effectively by extending scope of the criminal offences to the environment on EU level. EU Member States have two years to transpose the directive into national law after its entry into force on May 20, 2024. To this end, it introduces (i) new list environment-related criminal offenses, (ii) detailed requirements regarding sanctioning levels for both natural and legal persons and (iii) measures that Member States must take in order to either prevent or effectively prosecute offenses.

The Directive provides for 20 basic criminal offenses, among them trade with timber in violation of the EU Regulation on Deforestation-free products.

COMMISSION IMPLEMENTING REGULATION (EU) 2024/434 of 5 February 2024 on measures to prevent the establishment and spread of *Agrilus planipennis* Fairmaire within the Union territory.

In order to prevent spreading of *Agrilus planipennis* Fairmaire annual surveys and

eradication measures are foreseen, based on state of the art scientific information and technical solutions.

Member States should demarcate infested areas and apply eradication measures within areas of at least 100 m around the infested plants.

Buffer zone should be demarcated with a radius of 10 km around the infested zones.

Consideration of drafts forestry related regulatory acts in EU

Proposal for a Regulation of the European Parliament and of the Council on a monitoring framework for resilient European forests.

The purpose of the document is to establish and maintain a comprehensive, high-quality monitoring system based on standardised or harmonised data for all forests and other wooded lands. It is envisaged that the monitoring system would build on existing data sets, good practices of Member States and the technological advancement of remote sensing as well the EU capacity to provide these services. The forest monitoring system would consist of three elements:

- geographically explicit identification system for the mapping and localization of forest units
- forest data collection framework, specifying timing and data collection requirements, and
- forest data sharing framework that would enable the sharing of the data between Member States, with some data available publicly.

Member States would also be encouraged to develop integrated long-term forest plans or adapt their existing integrated long-term forest plans or strategies, taking into account a medium to long-term perspective.

In the first half of 2024, the draft document underwent various approval procedures. Opinion of the European Economic and Social Committee on the respected document is

dated 20.03.2024, which was officially published 31.05.2024.

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the production and marketing of forest reproductive material (FRM), amending Regulations (EU) 2016/2031 and 2017/625 of the European Parliament and of the Council and repealing Council Directive 1999/105/EC (Regulation on forest reproductive material).

The proposed draft is intended to replace the current EU Council Directive on forest reproductive material with a new regulation.

The proposal maintains the principles of approval of parent trees (basic material) and certification of harvested FRM before placing it on the market (by issuing a master certificate). Those trees are checked for characteristics that contribute to more resilient forests, e.g. tolerance to diseases, better adaptation to the local climatic and ecological conditions. Information about the suitability of FRM will be provided to potential buyers, so that the right variety of a tree is planted in the right place. This, in turn, would allow speeding up climate change adaptation of forests and ensure their continued productivity in the future. Member States enter the basic material approved on their territory in their national registers, based on which the Commission publishes a Community list of approved basic material.

It would be possible to register basic material intended for conserving forest genetic resources without an approval by the competent authorities; instead, professional operators would be able to only notify the basic material to the competent authorities.

Member States would be required to establish contingency plans to help ensure sufficient supply of FRM to reforest areas affected by extreme weather events, fires, pest outbreaks and other disasters.

The European Economic and Social Committee published its opinion on the draft 12.01.2024

EU Parliament voted on the report and adopted it as its first-reading position on 24 April 2024 with certain amendments.

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on nature restoration and amending Regulation (EU) 2022/869.

A new regulation aimed at putting measures in place to restore at least 20% of the EU's land and sea by 2030. In the case of habitat types that are in "poor condition", the restoration requirement is at least 30% by 2030, which is set to increase incrementally to 60% by 2040 and 90% by 2050.

If formally approved, the regulation will require member states to meet legally binding targets and obligations to carry out nature restoration in respect of specific ecosystems. Restoration, with a view to conserving and enhancing biodiversity and ecosystem resilience, will mean the process of actively or passively assisting the recovery of:

- an ecosystem to a good condition;
- a habitat type to the highest condition attainable and to its favourable reference area;
- a habitat of species to a sufficient quality and quantity; or
- a species populations to satisfactory levels.

The regulation leaves it up to each Member State to decide on the specific restoration measures it will apply within its own territory. To demonstrate how they will deliver on the targets, member states will be required to submit regular national restoration plans, which outline the restoration needs and measures, taking into account the local context alongside timelines for implementation.

On 27 February 2024, Parliament formally adopted the draft in plenary. So far, the Council has been unable to reach the qualified majority needed for validating the agreement.

It now also has to be adopted by Council, before being published in the EU Official Journal

and entering into force 20 days later. Member states will then have two years to submit their first nature restoration plan to the Commission.

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 691/2011 as regards introducing new environmental economic accounts modules.

The proposed Regulation aimed to broaden the scope of the European environmental economic accounts to improve statistical information for the European Green Deal, aligned with international statistical standards. The proposal adds three new modules to the European environmental economic accounts:

- forest accounts;
- ecosystem accounts;
- environmental subsidies and similar transfers accounts.

Forest accounts measure forest area and the available share for timber extraction and track their changes over time. Ecosystem accounts integrate biodiversity and natural capital considerations with mainstream economic questions on resource allocation and sustainability. Environmental subsidies and similar transfers accounts identify and quantify domestic fiscal policy measures and non-EU resources that support the Green Deal through economic activities and products, protecting the environment and safeguarding natural resources.

In the first half of 2024, the draft document underwent various approval procedures. The Parliament approved the text in a first reading during the plenary session at 10 April 2024.

Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on Corporate Sustainability Due Diligence and amending Directive (EU) 2019/1937.

The proposal said about prohibition of causing any measurable environmental degradation, such as harmful soil change, water or air pollution, harmful emissions, excessive water

consumption, degradation of land, or other impact on natural resources, such as deforestation.

Proposal adopted by the EU Parliament in a first reading 24.04.2024.

Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on Soil Monitoring and Resilience.

The draft envisages measures to monitor and assess soil health, standardisation of relevant definitions, defining requirements for sustainable soil management and the restoration of contaminated sites.

On 10 April 2024, Parliament adopted its position at first reading with a number of amendments. In particular, Parliament voted to exclude raw material deposits from the definition of soil. It added flexibility for monitoring and assessing soil health, allowing Member States to apply the soil descriptors that best illustrate the soil characteristics of each soil type at national level. The Parliament decided not to retain the mandatory timeline for upgrading soil status. It voted to remove Member States' obligations to define sustainable soil management practices, regularly assess the effectiveness of the measures taken, and review and revise them if necessary. It therefore also deleted the proposed list of sustainable soil management principles. Parliament deleted altogether the proposed provisions on penalties.

The Council has yet to agree its general approach.

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL establishing a Union certification framework for carbon removals.

The stated aim of the initiative is to ensure high-quality EU certified carbon removals, through a transparent and credible governance framework. This would open up the possibility for further investments towards carbon removal activities and increased deployment. Certification schemes should be used by

operators to demonstrate compliance with this Regulation. Therefore, certification schemes should operate on the basis of reliable and transparent rules and procedures and should ensure accuracy, reliability, integrity and non-repudiation of origin, and protection against fraud of information and of data submitted by operators. They should also ensure the correct accounting of the verified carbon removal units, notably by avoiding double counting.

To this end, the Commission should be empowered to adopt implementing acts, including adequate standards of reliability, transparency, accounting and of independent auditing to be applied by certification schemes, so as to ensure the necessary legal certainty as regards the rules applicable to operators and to certification schemes. To ensure a cost-effective certification process, those technical harmonized rules on certification should also have the objective of reducing unnecessary administrative burden for operators, or group of operators, in particular for Small and Medium Enterprises (SMEs), including small farmers and foresters. Certification is voluntary.

A review of the regulation was proposed three years after the entry into force and no later than 2028, and subsequently after each stocktaking exercise under the Paris agreement.

The text was adopted by the Parliament on 10 April 2024 and awaits the final sign-off from Council before its signature ceremony leading to publication in the Official Journal and entering into force.

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