



**ENVIRONMENT
PEOPLE LAW**

The rule of law for the protection of the environment

New policy for sustainable development of the forest sector:

implementation progress in 2022-2023



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In the recent years, Ukrainian forest policy has a number of distinctive trends, which reflect overall Ukrainian environmental and economic policy and priorities as well as vision of the sector development by managing officials of the State Agency of Forest Resources of Ukraine (hereinafter – SAFR).

These trends are based on 3 main directions with their distinctive features:

1. Administrative (management).
2. Economic.
3. Environmental.

Administrative/Management:

- Establishment of a single national structure responsible for forest management – the State Enterprise “Forests of Ukraine” (hereinafter FoU) with corresponding unification of management practice, both efficient and harmful. State forestry enterprises, which were formally independent before, became affiliates of FoU with their heads appointed by FoU and their policy fully controlled by FoU.
- Change of top management staff of affiliates of FoU (former state forestry enterprises). There are cases when top positions in affiliates are taken by people with doubtful reputation.

Economic:

- Attempts to increase the short-term profitability of forest management regardless of the decrease of sustainability of forest ecosystems and neglect of biodiversity protection; the long-term economic efficiency is under question as well.
- FoU affiliates stop forest felling activities and processing of wood which were carried out by state forestry enterprises (now – affiliates of “Forests of Ukraine”) for the benefit of private felling and processing companies;
- Preservation of bribery schemes for timber trade and illegal land withdrawal.

Environmental:

- Attempts to spread felling towards natural areas with either special protection regime or those which were not previously accessible for commercial felling;
- Attempts to withdraw forestry sector from environmental control by environmental protection authorities (ban of inspections due to provisions of martial legislation and attempts to weaken or exclude existing procedures of environmental impact assessment applied to forestry practices (namely, clear sanitary cuttings).
- Initiatives to increase areas covered with trees (President’s initiative – “The Billion of Trees”) on the national level.
- “Freezing” of the process of establishing protected areas in forests.
- Forest lands lease based on simplified and weakened procedures for the activities other than forestry and environmental protection (mining, construction) combined with illegal logging, which cause or potentially may cause serious environmental damage and degradation of forest ecosystems.
- Ignoring the natural and anthropogenic spread of invasive tree species and related threats to natural ecosystems and biodiversity.

- Forest logging on slope complexes, within the coastal protection strips of rivers and removal of forest along streams.
- Lack of understanding that forest is a complex ecosystem that needs measures for comprehensive forest conservation.

The Russian aggression results in essential adverse impact on Ukrainian forests and intensified war-related problems:

- Destruction of huge areas of forests in the eastern part of Ukraine (Donetsk, Luhansk, Kharkiv regions).
- Destruction of forest biodiversity as a result of the hostilities.
- Inaccessibility of large part of Ukrainian forests for forest management and control - the areas occupied by Russian Federation (Crimea, occupied parts of Donetsk, Luhansk, Zaporizhzhia, Kherson, Mykolaiv and Kharkiv regions), forest lands which are polluted with landmines and those where active fighting takes place, forest on border areas with Belarus.
- Increase of wood harvesting for the purpose of the country defense.
- Denial of access to data of State Land Cadastre and digital maps of forest surveys.
- Ban on inspections by the State Environmental Inspectorate (Martial Law).

In 2021, an administrative reform in the forestry sector of Ukraine was initiated. Within its framework, state forestry enterprises were first consolidated and unified into a single State Enterprise "Forests of Ukraine". Such a step was justified by the need to unify managerial and economic approaches and saving of administrative costs. The efficiency results are not clear but alarming trends are observed in the environmental sphere and fight against corruption, sustainability of forest management: - officially declared and unofficial attempts to increase amount of felling due to exploitation of previously difficult-to-access forests that have high biological value; - appointment of persons previously suspected of bribery for top positions of the "FoU".

The Minister of Environmental Protection of Ukraine and the then head of the State Agency of Forest Resources of Ukraine (SAFR) openly speak about the need and intention to increase the volume of logging in the Ukrainian forests¹. For this purpose, relevant regulatory acts are being developed and actively lobbied for, such as the draft law # 9516², which aims for the abolition of the need to pass the EIA procedure for continuous sanitary felling (possibly leads to a massive increase in the volume of such felling, especially in the mountain forests of the Carpathians, where there are many restrictions for continuous commercial felling), as well as raising the threshold for passing the EIA procedure for projects of new forest planting (threatened by massive afforestation of non-forest ecosystems, primarily steppes and meadows)³.

On March 2023, the SAFR has proposed a draft resolution of the Government of Ukraine, which aims to allow more different types of logging within the natural forests, which are not declared as commercial and serve for environmental and recreational purposes⁴. Although environmental NGOs strongly opposed such a draft resolution and achieved the exclusion of the most destructive provisions from it, foresters have not yet completely given up their

¹ <https://www.facebook.com/ruslan.strelets/posts/3317803768532727>

² <https://itd.rada.gov.ua/billInfo/Bills/Card/42333>

³ <http://epl.org.ua/en/announces/zakonoprojekt-9516-blagymy-namiramy/>

⁴ <https://forest.gov.ua/regulyatorna-diyalnist/proekti-regulyatornih-aktiv/23032023-povidomlennia-pro-opryliudnennia-proiektu-postanovy-kabinetu-ministriv-ukrainy-deiaki-pytannia-zdiisnennia-rubok-v-lisakh-ukrainy>

intentions. About 2 months ago, another draft resolution of the Government of Ukraine, which provides for the simplification of reshaping logging, in particular in natural forests where commercial logging is prohibited, has been registered on the SAFR website⁵. It proposes legislative changes that threaten to intensify the exploitation of especially valuable forests that already have nature protection status.

1. The SAFR has declared and is already putting into practice a rapid increase in the pace of construction of forest roads network in previously inaccessible forests, mainly in the Carpathians and in wetlands, which aims to increase the commercial exploitation of these forests. For example, the SARF has promised to build new 160 km of forest road in the Carpathians this year⁶. The ecological consequences of such actions consist in the reduction of the area of natural old-growth forests that are becoming available for exploitation. This leads to the loss of important habitats⁷, in particular those protected at the European level, according to the Bern Convention.

2. The creation of new nature conservation areas within the forest fund of Ukraine has almost been stopped⁸. Since November 2022, the State Enterprise "Forests of Ukraine", which operates about 6,6 million hectares of Ukrainian forests, agreed to conserve no more than 700 hectares of forests out of more than 36 thousand hectares proposed for protection by scientists during this period. The prepared petitions and scientific justifications are not accepted by the State Enterprise "Forests of Ukraine", which allows for the continuation of legal destruction of these forests through planned commercial and sanitary felling.

3. There is active opposition to the approval of the List of invasive tree species with a significant capacity for uncontrolled spread, prohibited for use in the process of forest reproduction. As a result of such opposition, the possibility of using invasive species for reforestation remains, which endangers preservation of natural ecosystems and biological diversity and, in the long term, threatens significant negative economic consequences for Ukraine related to the fight against invasive species and preservation of natural ecosystems.

4. The draft law on the timber market, № 4197-d⁹ has stuck in the Parliament for almost 2 years. That allows the wood traders to sell their timber through monopoly platforms that are not transparent to the public. Such a situation leads to serious corruption risks, significant losses for the state budget, and increased opportunities for the sale of timber that was harvested with violations of environmental legislation. The matter is that it is much easier to sell illegally harvested timber with existing shadow schemes, like in-house processing by forestry enterprises, than if there existed a transparent and strictly regulated market.

5. During the martial law, environmental control is practically stopped from both sides - the state and the public sector -, which creates favorable conditions for increasing the scale of illegal logging and corruption in the forestry sector. Thus, it is necessary to adopt as soon as possible the draft law on state environmental control 3091¹⁰, which was registered in the Parliament almost 4 years ago, and the package of bylaws for its implementation. At the

⁵ <https://forest.gov.ua/regulyatorna-diyalnist/proekti-regulyatornih-aktiv/11092023-povidomlennia-pro-opryliudnennia-proektu-postanovy-kabinetu-ministriv-ukrainy-deiaki-pytannia-nablyzhenoho-do-pryrody-vedennia-lisovoho-hospodarstva-ta-provedennia-rubok-v-umovakh-voiennoho-stanu>

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<https://www.facebook.com/ForestsOfUkraine/posts/pfbid02PFYVy1gnUZ3aeYGXo4a1bUkk4znAVuJXZNpsmToHGyFtEiDNT9KHxmEd7SAT92N9I>

⁷ <https://uncg.org.ua/sumnyj-pryklad-brusturyanskogo-lisgospu/>

⁸ <https://www.pravda.com.ua/articles/2023/10/15/7424078/>

⁹ https://w1.c1.rada.gov.ua/pls/zweb2/webproc4_2?id=&pf3516=4197-%D0%B4&skl=10

¹⁰ https://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=68186

same time, it's crucial to restore the possibility for regular environmental inspections of forestry enterprises even during the martial law.

6. The Ukrainian forest management sector does not pay necessary attention to evaluation of harm and losses caused by Russian aggression and preparation of basis to demand compensation from Russian Federation. Lack of developed plans to restore forests in the eastern and southern parts of Ukraine may results in hasty and inefficient solutions. Distant evaluation of forest areas burnt by fires, destroyed by shelling and cut for military purpose is carried out mainly by initiative groups of NGOs and scientists with minimum or full lack of support from SAFR and FoU. These issues demonstrate that both SAFR and FoU tend to direct their efforts towards increase of felling and access to forest of high ecologic value rather than preservation of ecological functions of Ukrainian forests in the time of war. They do not sufficiently work to ensure forest sustainability, biodiversity protection and do not pay necessary attention to plans of restoration of forests harmed or destroyed by war and evaluation of losses caused by the Russian aggression.

Based on the above facts, it can be concluded that most of the reforms in the field of forestry and forest protection in Ukraine, performed under the leadership and at the initiative of SAFR and FoU, are not aimed at achieving the goals of sustainable development that include preservation of natural forests and biological diversity. They do not improve access to forest resources of local communities and do not contribute to the fullest possible use of environmental services of forests, as well as long-term economically sustainable forest use. The purpose of their work is to maximize profit in the short term without considering environmental and long-term economic consequences of these processes. In the industry, The approach focused on considering forests as a wood resource and a source of income only and based on the principle of "here and now" still prevails in the forest management sector.

Because the negative facts and trends in the forest management sector in Ukraine need to be corrected, we suggest taking the following measures:

1. Preserve obligatory environmental impact assessment (EIA) for continuous sanitary felling, in particular by preventing the adoption of the draft law 9516 "On amendments to some legislative acts of Ukraine on effective forest management based on the principles of forest management close to nature, adapted to climate change, preservation of biodiversity in forests", which provides for exclusion of continuous sanitary felling on an area of more than 1 hectare from the list of the first category types of planned activities and objects that may have a significant impact on the environment and are subject to environmental impact assessment.

2. To include construction of new forest roads into the list of types of planned activities and objects that may have a significant impact on the environment and are subject to environmental impact assessment.

3. To include changing the purpose of forest land into the list of types of planned activities and objects that can have a significant impact on the environment and are subject to environmental impact assessment.

4. To prohibit minerals development on the basis of easements.

5. To unblock the process of establishing new nature conservation objects and not to prevent the allocation of natural forests, quasi-preforests and primeval forests with the appropriate legal status for this purpose.

6. To increase fines for violations of legislation forestry management (illegal felling, transportation of wood by watercourses, etc.).

7. To develop and approve the List of invasive tree species with a significant capacity for uncontrolled spread, prohibited for use in the process of reforestation.

8. To develop and launch transparent platforms and procedures for wood trade, in particular: remove restrictions on minimum lots, apply indicative prices for wood sales under direct agreements, to repudiate reversed auctions.

9. To restore environmental control in full, in particular by adopting the draft law 3091 and implementing its provisions in practice.

10. To develop and approve methods for accounting for ecosystem services of forests.

11. To apply modern means of documenting damage caused to forests by the aggression of the Russian Federation, including remote documenting of damage. To introduce and apply legal mechanisms for compensating damages.

