

## THE APPROXIMATION OF THE POLICIES AND LEGISLATION ON FORESTRY IN ALBANIA WITH THE ACQUIS COMMUNAUTAIRE

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### Abstract

This paper will offer an overview of the policies and the legal framework on forestry in Albania, with the aim of evaluating the degree to which they have been approximated to the *acquis communautaire*, in the process of the European integration of Albania. It begins with an introduction explaining the role of forests in the Albanian society and economy. Further, the methodology used for the conduct of this study is explained briefly. In order to better understand the current situation regarding the policies and legislation on forests in Albania, a short description of the historical development of the forestry sector precedes the analysis of the European and Albanian legal framework. The provisions of the *acquis communautaire* on the Forestry Strategy, on monitoring the damage caused to forests by atmospheric pollution, on the protection of forests from fire, on the Protected Areas, and other regulations and directives are overviewed and the relevant Albanian legislation is comparatively analysed to see the degree of transposition and its level of approximation. In the end, based on the analysis conducted, conclusions are reached and recommendations offered for furthering reform in the forest policies and legislation in Albania, in order to reach the European standards and successfully complete the process of European integration.

**Key words:** approximation, integration, legislation, forest, environment

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## 1. Introduction

Forests have played an important role in the development of the economy and society in Albania. At present, they cover an area of 1,042,790 hectares, equal to 36% of the total area of the country. The forest fund contains around 350 species of trees and shrubs. Apart from the economic aspects, forests provide environmental, social and cultural benefits.

Because forestry has traditionally been considered as closely related to agriculture, there is no separate data regarding its contribution to the country's economy. Statistics show that their share in the national economy has been reduced over the years, where agriculture's contribution has fallen from 42.5% of the Gross Domestic Product (GDP) in 1992, to 20.7% in 2005.<sup>1</sup> Around half of the population of Albania lives in rural areas and they rely on agriculture and forestry for their livelihood, the majority of them living and working on small farms. This puts an enormous pressure on forest resources, which have to provide the subsistence means for rural families. Half of the population lives in the areas where around a third of the forests are situated, whereas in the mountainous areas where there are two thirds of the forests, lives only a third of the population. This clearly affects disproportionately the forest resources, with a higher rate of exploitation in the areas that are more densely populated.

In the current ownership structure over the forests in Albania, 98% of the forests are publicly owned, out of which around 50% are transferred for 'use' by the communes (the so called 'communal forests'), whereas 38% have remained under the administration of the Forest Service, and nearly 2% have been returned to the former owners.

State forests are administered and managed by the Forest Service Directorates in the districts, which supervise also the implementation of the law on forests by the local authorities (communes and municipalities) and private owners. Regarding communal forests, the tradition in Albania has been such that forests close to a village have been possessed by the village, to be commonly used by the entire village for wood, grazing, and fodder, and by each family, using separate forest plots to fulfil their own needs. The particularity of these forest areas is that property titles over them have never been formally recognized, i.e. the possessors have never had ownership certificates for them, because otherwise they would have to pay taxes. Formally, communal forests are owned by the communes or municipalities and managed by their administrative units.

As far as private ownership of forests is concerned, the privatization of the forest fund in Albania is not allowed, being still considered as a strategic sector, even the areas of shrubs and degraded forests that constitute 60% of the forest fund. The existing legal framework in Albania provides only for the restitution of those forests that were privately owned before establishment of the communist regime in 1944, and only up to a maximum of 100 hectares for each former owner. This means that privately owned forests today constitute only 2% of the forests in Albania, and if the whole restitution process is complete, can reach as much as 5%.

European integration has been one of the main priorities of Albanian foreign policy since the fall of communism in the beginning of the 90's. An important part of the overall integration process is related to the approximation of the Albanian legislation with the *acquis communautaire* on the environment. In this regard, the drafting of policies and legislation on forests constitutes one of the main areas that have undergone a deep reform, which will continue even further towards reaching the European standards on forest protection and their sustainable development.



<sup>1</sup> All the data are available at <http://www.instat.gov.al/> Accessed March 10, 2012.

In the current stage, Albania is a potential candidate country for membership in the European Union (EU). It signed the Stabilization Association Agreement (SAA) with the EU on 12 June 2006, entering into force from 1 April 2009. The ratified international agreements come immediately after the Constitution in the Albanian legal system and are considered part of its internal legal order.<sup>2</sup> As far as environmental issues are concerned, pursuant to Article 108 of the SAA, the parties undertake to develop and strengthen cooperation in the fight against environmental degradation, in order to promote environmental sustainability. Cooperation mainly focuses on the priority areas related to the *acquis communautaire* on the environment.<sup>3</sup> With the aim of approximating the Albanian environmental legislation with that of the EU, a National Plan has been approved for this purpose.<sup>4</sup>

A complete legal framework lays the ground for more effective environmental protection, the promotion of capacities and institutions, increased efficiency in using natural resources, the reduction and prevention of environmental problems, in keeping with the sustainable development principle, as well as for encouraging economic growth.

In order for the environmental policies to be implementable and effective, they need to rely on a complete legal framework and efficient administrative structures. The Albanian environmental legal framework is relatively new compared to that of other European countries. The first purely environmental policies were drafted in the context of the National Action Plan for the Environment, approved in 1994 and prepared with the assistance of the World Bank, based on the National Strategy on the Environment of 1993. The adoption of the principle of the sustainable development and use of natural resources without harming the possibilities and the needs of future generations, as the only alternative for the future on the environment, was escalated to the highest legal order by becoming a constitutional principle in the new Albanian Constitution approved in 1998. The main law of the land stipulates that the state, within the constitutional competences and the tools it possesses, aims at guaranteeing a sound and ecologically appropriate environment for the generations of today and the future.<sup>5</sup>

Following the approval of the Constitution, a broad legal environmental framework was drafted, consisting of laws and bylaws which seek to protect the environment. Among these are the laws on forests, which aim at their protection, management, and sustainable development.

## 2. Methodology

The study will be conducted through archival research with the purpose of the identification and analysis of the *acquis communautaire* relevant to forestry, and their transposition in the Albanian legal system. Further, it will be analyzed whether the efforts towards European integration in the forestry sector have been successful or not, and whether this derives as a result of the reform initiated in the framework of the approximation of the legislation, or as a result of other factors.

In the end, the paper will include the conclusions reached and will strive to offer recommendations regarding the most suitable framework and on the possible course of action to be followed for guaranteeing forest protection and their sustainable development, in line with the EU standards.

<sup>2</sup> Constitution of the Republic of Albania, Article 116.

<sup>3</sup> The Stabilization and Association Agreement. Available at <http://www.mie.gov.al/?fq=brenda&m=shfaqart&aid=98> Accessed February 2012.

<sup>4</sup> National Plan for the Approximation of the Domestic Legislation with that of the EU. Accessed February 2012. Available at [http://www.mete.gov.al/doc/plani\\_kombetar.pdf](http://www.mete.gov.al/doc/plani_kombetar.pdf)

<sup>5</sup> Constitution of the Republic of Albania, Article 59.

### 3. Historical development of the forestry legislation in Albania

In order to better understand the current situation regarding the policies and legislation on forests in Albania, this short description of the historical development of the forestry sector precedes the analysis of the European and Albanian legal framework.

#### 3.1. *Early customary regulations regarding forests*

The earliest regulations regarding the use of forests in Albania were made in the Code of Lekë Dukagjini, which was a code of the XV century, comprised of customary rules that governed the lives of the clans of northern Albania, rules that have evolved through centuries.

The Code stated: “Any house that billows smoke [i.e., where people live] must have its own land... [t]he property of the house includes courtyard and garden, vineyards and fields, meadows and woodlands, roads and paths, and boundaries in the mountains, in the lowlands, and in the plains... [T]he fields, vineyards, garden and meadows, woodlands, small forests and thickets are divided by boundaries.”

There were also rules regarding the common property of the village, which was defined as “...[t]he area held in common by a village for pasture, timber, firewood, hunting, and for other needs... [C]ommon property is not divided, but every inhabited house in the village has the right to the common property of the village.” Land boundaries, either between private properties, or between them and the common property, were strictly respected by all. The Code stipulated that “Once boundaries are fixed, they are never moved again”. Severe punishments were foreseen for the violation of the rules protecting private and common property. The strict rule to be observed sanctioned that “If somebody’s flock enters another’s pasture a hundred times in one day, the owner of the flock must pay that many animals as a fine.”

During that period, almost similar customary rules included in the Code of Laberia have been applied in the areas of Southern Albania.

At that period of time when the Codes were in force, forests and pastures fulfilled the needs of villagers and one could not speak of natural resources degradation.<sup>6</sup> A few remnants of the Codes regarding the village forests are still visible in some remote regions of the country.

#### 3.2. *Forestry legislation before 1945*

After almost five centuries under the Ottoman Empire and the implementation of the Ottoman legislation in Albania, the very first legal act related to forestry enacted in Albania was the “Law on forests and pastures” of 27 January 1923. It defined three categories of ownership over forests state owned, communal, and private. Property titles over land and forests were recognized on the basis of official documents and with clear designated boundaries. The law prohibited the clearing of state forests for arable land, when there was no clear valuable agricultural profit to be gained. The right of forest harvesting was granted only through a special permit issued by the Forest Service. The same was true for the collection of branches, litter or earth, and for grazing the livestock. Lopping on old trees was allowed only by special permission. Also, secondary forest products could only be collected after acquiring special permits. Livestock grazing was allowed only in authorized areas, and there was a 10-year ban on grazing in harvested forests, in order to ensure their regeneration.

Every village had the duty to take measures against forest fires, including those that were private ones, including reforestation duties in the degraded areas, by planting new seedlings. The law defined

<sup>6</sup> Muharremaj, Vezir. Considerations on forest and pasture restitution to ex-owners in Albania. Tirana: Albania Private Forestry Development Program, 1997.

the technical criteria regarding the logging of mature trees, forest regeneration and management. The law dealt also with the amount of forest wood that could be cut, the location where this could be done, and all the operations in the forest that could only be authorised by a forester.

A flat tax of 7% on the market price was applied for wood that was logged in privately owned forests. The wood used for the construction of private homes was excluded from taxation, whereas on wood logged for industrial purposes a forest tax would be paid, at the level decided by the municipality. Taxes from the wood and non-wood products taken from private forests had to be paid to the state before their removal. There were stiff penalties against illegal logging. In these cases, apart from the heavy penalty to be paid, there was also the obligation to replant the area where the trees were cut. Sanctions were also stipulated for other types of damage caused to the forest, such as arson, livestock grazing, etc.



### *3.3. Forestry policy and legislation during the communist regime, 1945-1990*

With the establishment of the communist regime in Albania after the end of World War II, the nationalization of the entire economy in 1945 included also forests and pastures. Private ownership on forests was totally eradicated by 1966, and the whole area covered by forests and pastures was declared state property in the Constitutional provisions of 1976.

The irrational policies during totalitarianism aiming at the fulfilment of all the country's needs for food through domestic production led to the clearing of forest areas in order to open arable land, almost in all plain areas, even in mountainous terrains, thus destroying huge areas of valuable forests. Being unsuitable for crop production, most of them were abandoned after only one or two years. Many former private forests and pastures were also destroyed under this policy, mainly in the vicinity of villages and inhabited areas. At present, these lands are among the most degraded ones because of intensive cutting and overgrazing, combined with frequent fires, having caused severe erosion, which is a widespread problem around the country.

Despite the existence of the legal framework, its implementation was a serious problem, which still persists today. There were numerous laws and regulations during this period for forests and pastures, but they were only partially implemented. As in all areas of the economy, people had no incentives to protect state-owned forests, while they were only interested in protecting the forests that were used by them and their village.

### *3.4. Current forestry policy and legislation*

With the collapse of the communist system in Albania, following the first democratic elections, the newly elected parliament enacted a new law on forests in 1992,<sup>7</sup> which started the process of restructuring forest administration and the privatization of forest harvesting activities, the restitution of forests and pastures to the former owners, the transfer of forests to the local government units

<sup>7</sup> Law nr. 7623 of 13 October 1992, "On the forests and the police of the Forestry Service".

and users (villages, families, etc.), the collection of secondary forest products (medicinal plants) by private entities, and the establishment of joint ventures and private enterprises.

After five decades of exclusive ownership by the state, the new legislation defined three types of property over forests: state owned, communal, and private. Apart from the classification based on the property types, forests were also classified according to their function into productive forests and protective ones, with the aim of emphasising the protective role of forests, as compared with the previous policies that focused only on production. Among others, regulations were introduced regarding the protection of forests from fires, grazing, etc. The law on forests and the bylaws have been amended several times, in order to adapt to changes and reflect the new realities.

There is a 'Green Strategy' in Albania, where the objectives for the forestry have been set. Also, there is a separate Strategy for the Forests and Pastures, with these main objectives: the protection of the entirety of the forest fund, its sustainable management, the application of market economy principles in all aspects of the forestry sector, the transfer of forests for communal use, the development of tourism, etc.<sup>8</sup>

Some of the fundamental aspects of the policy and legal reform on forests include: the shift from the planned and centralized economy to a market economy, the restitution of forests to the former owners, the privatization of production and service activities in forests, and the realization of the transfer of over 50% of the forested area under the ownership of communes and municipalities.

Because the law on forests of 1992 had many gaps and its implementation was problematic, a new law on forests was enacted in 2005,<sup>9</sup> (hereinafter 'the Forest Law') which has been amended several times since then, in order to reflect the changes that have happened in the forestry sector. The new legislative framework provides the basis for the much needed institutional reform, by establishing

the institutions that should implement it. At the central level, the responsible authority is the Directorate of Forest and Pastures, in the Ministry of Environment, Forests, and Water Administration (MEFWA), and the Agency of Environment and Forests as the subordinate of the Ministry. For the state owned forests in the districts the responsibility rests with the District Forest Service, while for communal forests responsible authorities are the relevant sectors of the communes and municipalities.

The new law divides the forests into public and private, where the public forests are under the ownership of the Forestry Service at the central level, and under the ownership and use of the communes and municipalities at the local level. Public and private forests are managed according to management plans, which define the measures for their protection, development, maintenance, and harvesting.

Despite all the improvements in the legal framework on forests, there is still concentration of competences in the hands of the central government institutions, even for matters that could very well belong to local government, such as: the management and exploitation of forests, removal from the forest and pasture fund, change of the use of land, the rehabilitation of the forest and pasture ecosystems, the issuance of permits and different penalties, etc.

The use rights over forests and pastures are not complete and clear enough. They do not properly include the real users: village, families, and users' associations. Through the transfer of forests and pastures under the ownership of local government, the process has only gone half-way, detailing

8 Strategy for the Development of the Forest and Pastures Sector in Albania, 2003. Accessed March 2012. Available at <http://www.moe.gov.al/upload/legjislacioni/strategji/STRATEGJIA%20PER%20ZHVILLIMIN%20E%20SEKTORIT%20TE%20PYJEVE%20DHE%20KULLOTAVE.pdf>

9 Law Nr.9385 of 4 May 2005, "On Forests and the Forestry Service". Accessed March 2012. The environmental legislation of Albania is available at [http://www.moe.gov.al/index.php?option=com\\_content&view=article&id=51&Itemid=57](http://www.moe.gov.al/index.php?option=com_content&view=article&id=51&Itemid=57)



only the procedures of transfer from the forest service to the commune or municipality, but not up to the main user that is the village, the families, and associations.

There are no criteria and rules on forest exploitation for timber and firewood, for wood and non-wood products, for lopping and grazing, and for pastures under communal use, for selling the wood materials and other products, when the harvesting is above their needs. In such cases, legal provisions should allow the sale of products by the commune, or by the village, the agricultural families and users' associations, in order to increase their income and alleviate poverty.

Also, there are neither legal provisions for the relations between the central government and the local government regarding communal forests, in particular with the users, the agricultural families and users' associations, nor for the relations between the local government, the Forest Service, the users and their associations. There is a lack of incentives for users and associations for the direct profits they could have as a result of the good management of natural resources, and there are no clear provisions for the relations between the central government and the local authorities with the communal forest users and the private owners.

#### 4. The approximation of the Albanian forestry policies and legislation with the *acquis communautaire*

Referring to the provisions of the Treaty establishing the European Community, forestry was not among the areas where the Member States would have a common forestry policy, so they would be themselves responsible for this sector's policies, with the management of forests left to each country. The integration of forest policies is aimed through the coordination of other sectoral common policies, such as those on the Environment, Energy, Agriculture, Industry, Trade, etc. But this has drawn the critics to argue that having the forest policies scattered in so many sectors within the EU has led to their fragmentation, making it impossible to have a coherent forest policy.<sup>10</sup> On the other hand, all the Member States of the EU, as well as the EU itself as an international organization, are parties to the Ministerial Conference on the Protection of Forests in Europe (MCPFE), which includes all other European countries, and is the body responsible for the development of common strategies related to forestry in the European continent.<sup>11</sup> It was in the Ministerial Conference held in Oslo, Norway, in June 2011, that the Ministers responsible for forests in Europe made the important decision to sign the mandate for negotiating a Legally Binding Agreement on Forests in Europe.<sup>12</sup>

Moreover, the EU as a separate entity in international law has become a party to the Convention on Biodiversity (CBD), the UN Framework Convention on Climate Change (UNFCCC), and the UN Convention to Combat Desertification (UNCCD). Despite such a fragmentation, there are mechanisms of cooperation and coordination related to forest issues of a transboundary impact, such as forest fires, forest diseases, forest product trade, etc. In the European integration framework, Albania has become a party to both the mechanisms of cooperation: the EU, through the SAA, and the MCPFE, through its membership, whereas in the wider context, it is a party to all the aforementioned international conventions.

Taking into consideration the multifunctional and important role that forests play in people's lives, by supporting their livelihood, their effect in the climate and soil, their role as provider of

10 Report on the workshop for the review of the EU Forestry Strategy, 15 April 2011, Brussels, p.2. Accessed March 2012. Available at [http://ec.europa.eu/agriculture/fore/events/15-04-2011/report\\_en.pdf](http://ec.europa.eu/agriculture/fore/events/15-04-2011/report_en.pdf)

11 Forty six European countries and the European Union are signatories to Forest Europe. Further information can be obtained at <http://www.foresteuropa.org>

12 Accessed March 2012. Available at [http://www.foresteuropa.org/filestore/foresteuropa/INC\\_2012\\_Madrid/EN\\_Document\\_21\\_Ministerial\\_Mandate\\_from\\_FE.pdf](http://www.foresteuropa.org/filestore/foresteuropa/INC_2012_Madrid/EN_Document_21_Ministerial_Mandate_from_FE.pdf)

sustainable energy and raw materials, a growing body of legislation is dedicated to forestry. Within the EU legislation, one of the first acts related to forestry was the EU Forestry Strategy, stipulated in the Council Resolution 1999/C56/01 of 15 December 1998, "On a forestry strategy for the European Union",<sup>13</sup> which was accompanied by the EU Forest Action Plan. The main pillars of the Forestry Strategy rely on sustainable forest management, application of the principle of subsidiarity, the protection of forest heritage and biological diversity, and the increase of efficiency in the communication, coordination, and cooperation among the Member States. Taking into account the further expansion of the EU, the strategy reiterated that the potential new members could be supported through the mechanisms designated for agricultural and rural development, which could also cover forestry.<sup>14</sup>

Based on this, the European Council issued Regulation 1085/2006 of 17 July 2006,<sup>15</sup> establishing the Instrument for Pre-Accession Assistance (IPA) for candidate countries, which should focus on the adoption and implementation of the full *acquis communautaire*, and the implementation of the Community's agricultural and cohesion policy. Albania is one of the beneficiaries of the IPA, together with the other Western Balkan countries and Turkey.

Acting on the obligations undertaken in the framework of the Stabilization and Association process, on the EU Forestry Strategy, and on the Pan-European Biological and Landscape Diversity Strategy,<sup>16</sup> Albania has also adopted a National Strategy for the Forests and Pastures in 2003.<sup>17</sup> The strategy defines the main lines of action for the following 25 years, constituting at the same time an action plan for the next decade. Among its proclaimed aims are the preservation and re-establishment of natural equilibrium of forest resources, the sustainable administration of forest products, the achievement of an optimal contribution of the forest sector in the economic development, fight against poverty, and sustainable development of Albania.

In general, many EU directives have been transposed into the Albanian legislation, but some important aspects have not been included in the Forest Law. Neither the privatization of forests is allowed, nor the sale of products extracted from forests given for use by villagers. Also, the restitution of forests to the former owners is being carried out very slowly, with no deadline set for the completion of the process. As such, there is a need for the revision of the Forest Strategy and the inclusion of these important aspects in the new strategy.

The EU Council Regulation 3528/86 of 17 November 1986, as subsequently amended in 1989, 1992, and 1997, focused on the protection of forests by setting up a scheme for monitoring the damage caused to forests by atmospheric pollution.<sup>18</sup> Again, the final aim was to assure the productivity of agricultural land, which is inextricably dependent on the protection that forests offer to them. All the Member States were to assign a number of observation areas, thus creating a network that through continuous observations would create an inventory of the actual damage caused to forests by atmospheric pollution. All the findings would be used by the Member States to draft forest health reports, using uniform scientific methods, which should be submitted to the Commission for evaluation.<sup>19</sup>

13 Accessed March 2012. All the EU materials on forestry can be found at [http://ec.europa.eu/agriculture/fore/publi/index\\_en.htm](http://ec.europa.eu/agriculture/fore/publi/index_en.htm).

14 Accessed March 2012. The EU Forestry Strategy, available at [http://ec.europa.eu/agriculture/fore/forestry\\_strategy\\_en.htm](http://ec.europa.eu/agriculture/fore/forestry_strategy_en.htm)

15 Accessed March 2012. Available at [http://eacea.ec.europa.eu/tempus/documents/tempus\\_ipa.pdf](http://eacea.ec.europa.eu/tempus/documents/tempus_ipa.pdf)

16 The Pan-European Biological and Landscape Diversity Strategy (PEBLDS) was adopted at the 3rd Ministerial Conference "An Environment for Europe", held in October 1995, in Sofia, Bulgaria. Accessed March 2012. Further information can be obtained at [http://www.coe.int/t/dg4/cultureheritage/nature/biodiversity/default\\_en.asp](http://www.coe.int/t/dg4/cultureheritage/nature/biodiversity/default_en.asp)

17 Supra, note 7.

18 Official Journal, L 326, date 21 November 1986, p. 2.

19 Council Regulation (EEC) No 3528/86, Articles 2 and 3.

These aspects have been included in the Forest Law of Albania and the monitoring is carried out by the Agency of Environment and Forests and the District Forests Service. A number of observation plots have been established throughout the country. However, the number and frequency of monitoring, and the equipment available are inadequate, but more importantly, there is insufficient funding for the prevention and the elimination of damage caused to forests.

Apart from atmospheric pollution, the other cause of severe damage to forests is fire, which is a serious obstacle to the sustainable development of forests. In the framework of measures taken to combat this negative phenomenon, the Council adopted Regulation 2158/92, of 23 July 1992, on protection of the Community's forests against fire, which was subsequently amended by Regulation 308/97, of 17 February 1997.<sup>20</sup> The purpose of the regulation was to set up a scheme for the protection of forests against fire, including a data bank for the Member States and the Community, in order to reduce the number of forest fires and the areas affected by them. The scheme would include measures to identify the causes of forest fires, improvement of the system of prevention, improvement of the forest monitoring systems, etc. As a result, the European Forest Fire Information System (EFFIS) has been established which serves not only the EU countries, but also the neighbour countries, with information on fires in the forests across Europe.<sup>21</sup>

In the National Strategy on Forests and Pastures Fire Management of Albania have been included the principles of Regulation 2158/92.<sup>22</sup> During the high risk summer season the number of observers is increased and there are several activities undertaken to raise public awareness for the protection of forests from fire. However, forest fires remain a serious problem because of insufficient infrastructure, equipment and funding. Apart from the natural causes of fire, since Albania belongs to the high risk area of the Mediterranean, human activity exacerbates the problem, where especially arson remains an endemic problem in Albania. During the arid summers, fires set by shepherds for clearing the area for new pastures are a common phenomenon. Despite the legal provisions that stipulate punishments for damage caused by arson,<sup>23</sup> such punishments are rarely handed out for damage caused to forests.

Closely connected to the protection of forests is the protection of wild fauna and flora, and for that purpose it was adopted the Council Directive 92/43/EEC of 21 May 1992, on the conservation of natural habitats and of wild fauna and flora. This directive urged Member States to take economic and social measures, in order to enhance the conservation of natural habitats and of the species' habitats, thus maintaining biodiversity. This is also known as the "Natura 2000" Directive, because it required from the Member States to establish a network of areas of conservation, including special protection areas.<sup>24</sup> Since the first adoption, it has been amended in 1997, 2003, and 2006, where Member States were required to adopt conservation measures, including specific management plans for these areas, which should be integrated into other development plans, together with other necessary administrative measures.



20 Accessed March 2012. Available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:1992:217:0003:0007:EN:PDF>

21 Accessed March 2012. For more information visit <http://effis.jrc.ec.europa.eu/>

22 The Strategy was adopted by the Council of Ministers Decision Nr. 290 of 30 April 2004.

23 Penal Code of the Republic of Albania, Article 151.

24 Council Directive 92/43/EEC, of 21 May 1992. Accessed February 2012. Available at [http://europa.eu/legislation\\_summaries/environment/nature\\_and\\_biodiversity/l28076\\_en.htm#AMENDINGACT](http://europa.eu/legislation_summaries/environment/nature_and_biodiversity/l28076_en.htm#AMENDINGACT)

Very often, central and local authorities have to face the difficult dilemma of pursuing the protection of the environment or the economic development of a particular area. In order to allow for the implementation of development plans that are of particular public interest, even when they are detrimental to those protected areas, the directive foresees the possibility of designating other protected areas in different locations, in order to compensate for the areas lost to the development plans. Thus, the countries ensure the preservation of the coherence of Natura 2000, while having the obligation to inform the Commission of all the measures taken to compensate the lost areas.<sup>25</sup>

In the high mountains of Albania there are still virgin forests with special values as regards biodiversity, landscape beauty, and natural monuments. Following the principles of Natura 2000, mainly in these areas have been established by law<sup>26</sup> 15 National Parks, which together with the Protected Areas cover 434,298 ha, or 15% of the total area of the country.<sup>27</sup> Based on the categories of the International Union for Conservation of Nature (IUCN), the Law on the Protected Areas has divided the protected areas into six protection categories, according to their importance.<sup>28</sup> The forests in these areas are excluded from exploitation, and certain activities within them can only be conducted through special permit.<sup>29</sup> However, as in many other former communist countries, illegal logging remains a serious problem in Albania, a persistent threat to forests and biodiversity that has led to massive deforestation and degradation. The Forest Law has transposed Regulation 995/2010 of the European Parliament and of the Council of 20 October 2010, the so called 'Due diligence Regulation', which sets obligations for the operators who trade timber and timber products in the market, following the 'Forest Law Enforcement, Governance and Trade (FLEGT): Proposal for an EU Action Plan'. The aim of the regulation is to prevent illegally harvested timber and timber products from entering the market. Because of widespread corruption, even among the law enforcement agencies, the impact in practice of such legal measures has been minimal in Albania. On the other hand, a considerable proportion of the illegally cut wood is destined for firewood, so there is no reliable data on its exact volume. Half of the population of Albania lives in rural areas, where the only source of energy for cooking and heating is firewood. The majority of the families in these areas are heavily dependent on forests. The breakdown in law and order in 1997 had disastrous consequences on the forests because of the sharp increase in the volume of illegally logged forests, estimated at over 500,000 m<sup>3</sup> of wood. Nowadays, this volume is estimated at 10,064 m<sup>3</sup>.<sup>30</sup>

All the above mentioned regulations and directives, including Council Directive 409/79 on the conservation of wild birds, Council Directive 88/332/EEC of 13 June 1988 on the marketing of seeds, and Regulation 2152/2003 of the European Parliament and of the Council of 17 November 2003 concerning monitoring of forests, have been transposed into the Albanian legislation through the Forest Law of 2005.<sup>31</sup>

The amendments made to the Forest Law in 2007 added an entire chapter to the law, making compulsory the establishment of a monitoring system and data on forests, with direct reference to the EU directives and the system used by the Food and Agriculture Organization (FAO). With regard to the role of forests in carbon sequestration, the amendments made a specific reference to the Kyoto Protocol, where MEFWA is assigned as the responsible authority for its observation, the

25 Ibid., Art. 6.

26 Law Nr. 8906 of 06 June 2002, "On the Protected Areas".

27 Network of Protected Areas. Accessed March 2012. Available at [http://www.moe.gov.al/upload/zona%20te%20mbrojtura/RRJETI\\_ZM-Dhjetor%202011.pdf](http://www.moe.gov.al/upload/zona%20te%20mbrojtura/RRJETI_ZM-Dhjetor%202011.pdf)

28 Accessed March 2012. Available at [http://www.iucn.org/about/work/programmes/pa/pa\\_products/wcpa\\_categories/](http://www.iucn.org/about/work/programmes/pa/pa_products/wcpa_categories/)

29 Law Nr. 8906 of 6 June 2002, "On the Protected Areas", Article 12.

30 Regional Environmental Centre, *Illegal Logging in South Eastern Europe*, Regional Report, September 2010, p. 38

31 *Supra*, note 8.

calculation, and trading of the carbon quotas.<sup>32</sup> Moreover, another draft law is being prepared by MEFWA, aimed at providing the legal basis for sustainable development, the conservation and administration of forests, the improvement of forest infrastructure, their monitoring system, and the harmonization of the informative system of forests and pastures.<sup>33</sup> The draft will be consulted with the stakeholders, central and local authorities, users, owners, communal forest associations, and environmental NGOs, in order to ensure a transparent process and in compliance with the provisions of the Aarhus Convention on access to information, public participation in decision-making and access to justice in environmental matters.<sup>34</sup>

Further, another draft law which has been prepared by MEFWA is the one “On the Genetic Material in Forestry”, which transposes Council Directive 1999/105/EC of 22 December 1999, on the marketing of forest reproductive material. This is one of the most recent developments in the Albanian efforts to approximate its forestry legislation with the *acquis communautaire* in order to provide the legal basis for the sustainable management of forests, so that they can fulfil their economic, social, and ecologic functions.

On average, private forest ownership stands at fifty percent in the European countries.<sup>35</sup> In Albania, experience shows that private forests are better protected and managed than the public ones. Thus, legal provisions should allow for further decentralization of forest management, by transferring the communal forests from use to ownership of the users, the village and the agricultural families. The village ownership of forests has a long customary tradition, which should be reinstated by law.

## 5. Conclusions

Since the signature of the Stabilization Association Agreement with the EU, Albania has undertaken a deep reform in the forestry sector to bring its policies and legislation in line with the *acquis communautaire*. As a result of the efforts to shake off the legacies of the past, now there are strategies in place and the approximation process is continuous. In this regard, a giant leap forward was the transfer of forests from the central government to the local authorities.

However, the whole process has not been flawless and other measures need to be taken to face the ever increasing challenges on the environment and on forests in particular. Despite the experiences and positive developments, in the forests still persist problems such as illegal logging, massive damage from forest fires, overgrazing and erosion, leading towards further degradation of forests. Informality in the Albanian economy remains high, including the forestry sector. To a large extent, apart from the problems inherited from the previous communist regime, this situation is partly the result of inadequate policies and legal framework, unclear property titles, non-implementation of the existing legislation, among other factors.

It has become necessary now for revision and completion of the Strategy for the Development of Forests, which should serve as the basis for deepening reform in the forestry, especially on issues related to the decentralization of forest management. Despite the efforts towards decentralization,



32 Law Nr.9385 of 4 May 2005, “On Forests and the Forestry Service”, Article 13.

33 MEFWA report for the 4th sub-committee meeting on transport, energy, environment, regional policy to be held in the end of March 2012, Brussels, p.15.

34 Accessed March 2012. Available at <http://www.unece.org/fileadmin/DAM/env/pp/documents/cep43e.pdf>

35 Schmithüsen, Franz and Hirsch, Franziska. “Private forest ownership in Europe”. United Nations, Geneva, 2010. Accessed March 2012. Available at <http://www.unece.org/fileadmin/DAM/timber/publications/SP-26.pdf>

there is still a concentration of competences in the hands of central authorities. The Forest Service supervises the implementation of the law on forests on state owned and private owners. The latter still need the approval of the Regional Forest Service for any activity on forests. State institutions have to decide even on issues that could be the authority of local government, such as the removal of areas from the forest fund, the issuance of permits and imposition of fines, etc. Moreover, there are overlapping competences of the National Council on Territorial Adjustment, the Council on Basins, the Council on Waters, the Council on Tourism, etc., all these with an effect on forests. The role and competences of local authorities should be enhanced towards natural resources management, including forests, complying thus with the principle of subsidiarity.

As far as the specific law on forests is concerned, it cannot be continued with countless amendments to the existing law. A new law must be enacted, which should as an imperative, include the right to privatize parts of the forest fund. The law should also provide for the transfer of communal forests from use to ownership, when the forest has been sustainably managed by the user. This could represent a novelty in Albania, since there are no such previous experiences in Europe. The Albanian experience shows that forests possessed with property titles are managed and protected efficiently. In order to guarantee the subsistence and alleviate the poverty of farmers in rural areas, it is necessary that the law guarantees to the users, villages and families, the right to sell products harvested in the communal forest. It should also put a stress on forest protection, by providing clearer measures to be taken, in compliance with the Forest and Pastures Strategy, and include complete provisions on forest monitoring, which are lacking.

Because of the important role that forests play in the protection of the environment, biodiversity in the climate change adaptation, and in the country's economy in general, Albania not only has to continue reform in the forestry sector to bring its policies and legislation in line with the *acquis communautaire*, but also to ensure that they are implemented in practice, as the only way to successfully complete the European integration process.