Forest Law Enforcement in Ukraine:
Status, Problems, Perspectives

Part One

Kyiv – 2010
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Surveys held by the World Bank under the ENPI-FLEG Program “Improving Forest Law Enforcement and Governance in the European Neighborhood Policy East Countries and Russia”.

This collected volume is published with the assistance of the European Union under the ENPI-FLEG Program implemented by the World Bank, the International Union for Conservation of Nature and the World Wide Fund for Nature. The authors of the incorporated materials are responsible for the content of this volume in full, while the latter does not reflect the view of the European Union or ENPI-FLEG Program implementers.
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Introduction

This compiled volume presents broad abstracts of the first part of the surveys held by the World Bank under the ENPI-FLEG Program “Improving Forest Law Enforcement and Governance in the European Neighborhood Policy East Countries and Russia”. The Program participants are Armenia, Azerbaijan, Belarus, Georgia, Moldova, Russian and Ukraine. The Program is financed by the European Union and implemented by the World Bank, the International Union for Conservation of Nature and the World Wide Fund for Nature.

The work of the Implementers under the ENPI-FLEG Program

The World Bank scrutinizes the problems of forest law enforcement and governance, develops recommendations as to preventing illegal cuttings, documenting and investigating violations in the forest sector. The World Bank facilitates piloting sustainable forest management practices in the Carpathian and other forest regions.

The World Bank also analyzes corruption risks in the forest legislation of Ukraine and a wide range of sociological surveys, including expert interviews and public-opinion polls. The World Bank fosters improving professional qualifications of forest specialists and forest guard officers, law enforcers, as well as carries out activities that facilitate the drawing-up of the National Action Plan on FLEG Problems, etc.

The International Union for Conservation of Nature (IUCN) cooperates with the World Wide Fund for Nature and the World Bank in implementing the ENPI-FLEG Program in Ukraine. IUCN supports the national Program implementation by means of pro-active participation in various key areas and activities, particularly in awareness-raising regarding FLEG and increasing public involvement in decision-making, in the planning and monitoring of FLEG issues by national organizations, as well as in regional cooperation and knowledge sharing.

The World Wide Fund for Nature (WWF). The World Wide Fund for Nature Danube-Carpathian Program pro-actively participates in the ENPI-FLEG Program implementation, chiefly in assessing the systems of control over timber movements that are effective in Ukraine and in determining possible ways to improve them. It is expected that gaps and “white spots” in the effective systems of control over timber movement will be analyzed with respective suggestions on their improvement developed.

The details on the Program can be found in the section “Regional ENPI-FLEG Programs as a Part of the Global FLEG Process”.

The full texts of the reports subsequent to the surveys could be retrieved at the national web-site of the ENPI-FLEG Program at www.fleg.org.ua. They have been also published on such web-sites as “Ukrayinskyyi lisovod” (“Ukrainian Forester”), “Pryroda v Ukrayini” (“Nature in Ukraine”).

Furthermore, this volume incorporates the abstract to the book by Oleg Storchous “Administrative Responsibilities for Forest Law Violations: Enforcement Practices of the State Forest Guard of Ukraine” which preparation and publication were also a part of the work under the ENPI-FLEG Program.

Please email your comments and suggestions regarding the content of this collected volume to: oleg.lystopad@enpi-fleg.org.
The Regional ENPI-FLEG Program as a Part of the FLEG Global Process

What Happens in the Forest Sector of Ukraine Today?

Over the last decade the forest sector of Ukraine has shown stable and progressive development with its annual outputs and sales being higher than in the majority of industries. Even subsequent to the latest crisis year of 2009 the sector reports increases in development figures.\(^2\)

Attention of the public and government to the forest sector has shown stable growth, too, which is caused not only by the fact that every year timber becomes even more valuable and scarce resource. The understanding of a most significant environmental role of forests is on the rise, too. This has been also reflected in the rapid growth of the area of forest natural reserve lands, in expansion of the volume of forestation works, etc.

Still, at the backdrop of generally positive official statistics the inefficient forest use problems, in particular illegal procurement and shadow timber business, are raised increasingly often. Their resolution should have been fostered by the recently adopted legal acts among which a particular attention is attributable to the new revision of the Forest Code of Ukraine (2006) with a set of its supporting regulations and the Concept of the Reform and Development of the Forest Sector of Ukraine (2006). However, legal innovations haven’t provided for quick outcomes, as confirmed by numerous facts of violations and offenses discovered, in particular in course of the inspections of forest businesses, initiated by the President and the Government after the disastrous flood in the Carpathians in July 2008. Also, such offenses in the forest sector are frequently covered by the press subsequent to reports by the Security Service of Ukraine, the Ministry of Internal Affairs, the Environmental Inspectorate and other law enforcement and controlling bodies.

Both the society and the authorities realize that illegal cuttings and unlawful timber circulation jeopardize the condition of Ukrainian forests, greatly harm the national economy and aggravate its image. However, no systemic efforts have been made to assess the scope of violations and losses brought about by them. Neither their causes are determined nor cleared action plans to improve the situation are developed.

The assessments of losses incurred by forests and the national economy due to the violations largely vary. In most of the cases they are lop-sided and/or emotional, which calls in question their accuracy and establishes pre-conditions for various speculations and unfair competition. Thus, the problem of law enforcement in the forest sector of Ukraine requires comprehensive learning and elaboration which processes should provide for a reasoned viewpoint to be acknowledged by all the government bodies, non-governmental organizations and forest businesses.

The FLEG Process Worldwide and in Europe

The problems associated with illegal timber procurement, shadow timber circulation and corruption in the forest sector are typical for many countries over the globe. Thus, in the early 2000s the FLEG (or FLEGT, where T stands for “Trade”) movement was initiated to be aimed at fighting illegal activities in the forest sector. This movement is a voluntary countries’ initiative aimed at bringing attention to compliance with the forest governance and timber trade legislation. The FLEG process is arranged according to the

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1 FLEG stands for "Forest Law Enforcement and Governance".

2 According to some experts, these calculations don’t consider changes in the USD/UAH exchange rate.
regional principle. As of early 2004, it had several lines: South-Eastern Asia, Africa, the Amazon basin, European Union states.

In May 2004 at the fourth session of the UN Forum on Forests Russia initiated holding the Ministerial Conference Europe and Northern Asia Forest Law Enforcement and Governance (ENA-FLEG). The Conference was hosted in November 2005 in Saint-Petersburg (http://go.worldbank.org/61gnqelg0). Its preparation and holding have been actively participated by the delegation of Ukraine. The major Conference papers were the Ministerial Declaration and the Indicative Action Plan approved by all the participating countries. Along with representatives from the government authorities, NGOs and businesses (although at all the sectors were represented by Ukraine) took a pro-active part in the Conference, too. In 2006 in Antalya the large international workshop “From Declaration to Action. Implementing the St. Petersburg Declaration on Forest Law Enforcement and Governance (FLEG) in Europe and North Asia (ENA)” took place (summaries of reports and workshop proceedings can be retrieved at http://siteresources.worldbank.org/INTFORESTS/Resources/AntalyaWorkshopProceedings_Russian.pdf).

This workshop, inter alia, drew up recommendations on the development and fulfillment of the National Action Plans on Fighting Illegal Cuttings and Other Forest Violations: http://siteresources.worldbank.org/INTFORESTS/214578-1113909941301/21503795/AntalyaDraftGuidelines060627Russian.pdf.

Achievements and Failures in the FLEG Process in Ukraine

In 2006–2008 the State Forestry Committee of Ukraine launched a row of actions stipulated in the Indicative Action Plan, in particular:

- amendments to legal acts (the Forest Code, the Administrative Code, the Criminal Code, the Concept of the Reform and Development of the Forest Sector of Ukraine, a number of Rules, Regulations and Standards) which are aimed at making forest sector operations more environmental-friendly, reinforcing controls over the condition of forests and forest sector activities, strengthening liability for forest law violations have been largely drafted and passed;

- actions have been taken for the purpose of establishing a transparent timber market (transfer to auction- and exchange-based trading) and eliminating shadow timber circulation (now certificate of timber origin is a mandatory document in exports and oblast-level commissions to control foreign economic activities are in place);

- works on certification of forests that are used by state-run forest companies have been incentivized (with forests in the Zakarpattia oblast and multiple forest companies in the oblasts of Zhytomir, Kharkiv and Kyiv having been already certified).

Unfortunately, the mentioned actions have been taken within one institution only. They haven't been agreed upon and consolidated into the unified action plan to be integrated into the national forest policy framework. Also, nearly all the actions have been criticized. For example, there have been numerous talks on insufficient protection of the certificate of timber origin, about the low level of fulfillment of environmental and social liabilities by forest companies that have obtained international certificates, etc. Undoubtedly, this reduces the overall effectiveness of actions taken. Subsequently, as of today:
there is no legally established definitions of the notions of “illegal cuttings” and “illegally procured timber” and they have multiple interpretations;

the National Action Plan on Fighting Illegal Timber Procurement and Corruption in the Forest Sector of Ukraine hasn't been developed yet;

inter-agency cooperation is at a low level;

representatives from the government authorities, non-governmental organizations and businesses have no common vision on the problem, act in a sporadic and inefficient manner;

insufficient attention is paid to providing opportunities for the lawful use of lands by the local population and businesses, which leads to an increasing number of offenses and social degradation of forest areas with high forest cover.

The ENPI-FLEG Program as a Continuation of the FLEG Process in Ukraine and Neighboring Post-Soviet Countries

Indeed, the ENPI-FLEG Program (as a part of the FLEG process) is called to assist the authorities and the society in solving these problems. The full name of the Program is “Improving Forest Law Enforcement and Governance in the European Neighborhood Policy East Countries and Russia”.

(Let us clarify here: to assist rather than to replace government and non-governmental entities and businesses, since resources of the Program are rather small as compared to the capacity of the State, businesses and the society in general).

The enlisted forest sector problems are typical for the vast majority of post-Soviet countries in Eastern Europe and Northern Asia. This, in order to assist these countries in implementing the FLEG Ministerial Declaration, the European Commission and other donors have established a multilateral trust fund to finance the FLEG Program in seven countries, inclusive of Ukraine. The Program is implemented by the World Bank in tight cooperation with the International Union for Conservation of Nature (IUCN) and the World Wide Fund for Nature (WWF).

Priority the FLEG Program Actions for Ukraine

The experts of the World Bank, IUCN and WWF in tight cooperation with Ukrainian specialists representing the State Forestry Committee and other stakeholders have developed a Working Plan on the Program implementation in Ukraine (see www.fleg.org.ua for more details) to cover the following key areas:

1. Discovering, assessment of the importance and classification of law enforcement problems at the national and regional levels;

2. Evaluating and increasing the effectiveness of forest law application and governance;

3. Developing and improving practical actions aimed at preventing, discovering and reducing a number of offences and their severity (a pilot regional project);

4. Ensuring the rights of the local population and small-scale businesses for the legal use of forest resources;

5. Increasing transparency of the work of the forest sector and public awareness-raising.
For the purpose of implementing the Working Plan the following set of tools is applied:

- analysis studies;
- targeted experts’ missions involving representatives of stakeholders;
- training workshops, qualification and skill upgrading;
- consulting workshops / round-tables;
- public polls;
- information support of the Project;
- pilot projects at the local or regional level.

More information on the actions and surveys of the Program can be retrieved at: http://www.fleg.org.ua and http://www.enpi-fleg.org.

The actions under the Plan will be implemented at two, i.e. regional and national, levels.

The national level will deal exclusively with issues related to discovering, classifying and assessing law enforcement problems; analyzing and improving the forest and adjacent legal frameworks; increasing the informational openness of the government authorities and improving their interaction with non-governmental organizations and representatives of forest businesses.

Regional actions will be practical ones and target at developing and testing modern methods and techniques of quality evaluation and control over timber movement as well as at preventing, discovering and documenting violations.

There will be recurrent information sharing with other countries participating in the Program for the purpose of comparative analysis of the situation in various countries.

The Program is to be completed in the second half of 2012. It is implemented in cooperation with the State Agency of Forest Resources (the former State Forestry Committee) and other government authorities, local self-government bodies, non-governmental organizations and associations, local communities and other stakeholders.

About the World Bank

The World Bank is one of the world’s largest sources of financial assistance to developing countries. The utmost purpose of the World Bank is to assist the poorest people and the poorest countries. The Bank uses its financial resources, employees and wide expertise to help developing countries fight poverty, intensify economic growth and improve life quality.

www.worldbank.org

About the IUCR

The International Union for Conservation of Nature (IUCN) helps the world find pragmatic solutions to our most pressing environment and development challenges. IUCN works on biodiversity, climate change, energy, human livelihoods and greening the world economy by supporting scientific research, managing field projects all over the world and
bringing governments, NGOs, the UN and companies together to develop policy, laws and best practice.

The IUCN is the world’s oldest and largest global environmental organization, with more than 1,000 government and NGO members and almost 11,000 volunteer experts in some 160 countries. IUCN’s work is supported by over 1,000 staff in 60 offices and hundreds of partners in public, NGO and private sectors around the world.

www.iucn.org

**About the WWF**

The World Wide Fund for Nature is one of the world’s largest and most respected independent conservation organizations – supported by 5 million people and active through the global network in over 100 countries. WWF’s mission is to stop the degradation of the planet’s natural environment and to build a future in which humans live in harmony with nature, by conserving the world’s biological diversity, ensuring that the use of renewable natural resources is sustainable and promoting the reduction of pollution and wasteful consumption.

www.panda.org
Opinion Surveys

Assessment of Forest Law Enforcement and Governance in Ukraine. The Results of the Expert Polling. Olexander Stegnii, World Bank consultant

The purpose of this survey was to study the attitude of forest sector experts and to determine a level of their awareness regarding such important issues as law enforcement, governance in the forest sector and a degree of related corruption, illegal cuttings, and access to forest resources by the local population and by small businesses. In addition, the survey was conducted to find out which legal norms, rules or current practices cause concerns among the experts. Results of the survey will be used for developing a public communication strategy and at the stage of planning / preparing various FLEG-related measures in Ukraine.

As part of the FLEG Program in late 2009 in Ivano-Frankivsk the group of sociologists polled 27 the region forest sector experts represented by forest employees and the State Environmental Inspectorate officers, officials, activists from non-governmental environmental organizations and also representatives of the business and cultural elite.

Most experts believe that the forest sector bears a significant impact on the economy of the Ivano-Frankivsk oblast and should have the attention of all the stakeholders in order to increase the effectiveness of the use of forest resources. The experts believe that the forest sector is a profile industry for the Ivano-Frankivsk oblast and for the Carpathian area in general. Demand on soft timber is the highest because it is predominantly used in production of construction materials. At that, a part of experts from among the representatives of the non-governmental environmental organizations underscored the importance to combine this sector’s economic weight in the region with its recreational potential.

The respondents almost unilaterally recognized the existence of problems with legal enforcement in the forest sector of the Ivano-Frankivsk oblast. Their opinions differ: one half of the experts believe that these problems are important, the others don’t consider them serious. The first opinion is mostly upheld by the representatives from the non-governmental environmental organizations, while the majority of the representatives of forest and industry sector and businesses believe that this is not a serious issue.

The experts assessed the protection of forests by various agencies on a scale of one to five, where 1 is “very poor” and 5 is “very good”. The majority of the participants assessed as “average” the level of protection of forests that are subordinate to: 1) the State Forestry Committee and 2) national parks and sanctuaries of the Ministry of Environmental Protection. The protection of the former collective farm forests (now de-facto – municipal/utility enterprises) are assessed as “poor” by the experts.

Table 1 and the subsequent tables do not take into account the opinion of the experts who failed to answer. Letter ‘n’ marks the number of experts who answered the questions.

<table>
<thead>
<tr>
<th>Subordination of forests</th>
<th>Protection level scores</th>
</tr>
</thead>
<tbody>
<tr>
<td>n</td>
<td>(on a scale of 1 to 5)</td>
</tr>
<tr>
<td>National parks and sanctuaries of the Ministry</td>
<td>23</td>
</tr>
</tbody>
</table>
According to the experts, the largest driving force behind the violations* in the forest sector of the Ivano-Frankivsk oblast is the social factor (unemployment, poverty, especially that of the residents in mountainous areas) and its derivative – low buying capacity of the local residents which rules out the possibility to purchase timber legally. Most of the experts mention corruption of the officials in charge of forest protection and the lack of the transparency in the forest sector. Among other factors the survey respondents have also mentioned a large amount of unregistered private sawmills and the established system of illegal purchases of stolen timber; the insufficient financing of the State Forest Guard, low salaries in the forest sector and flaws of the legislation regarding illegal dealers in stolen timber.

The majority of the survey respondents assessed as “satisfactory” the legislative and normative regulation of the issues related to the use of forests and forest resources in Ukraine.

According to the experts, the most common violations in Ukraine are incompliance with the procedures for cuttings in the Carpathian mountains and the seizure of the forest lands in order to assign them to other categories, such as those enabling construction.

Also, in opinion of the survey respondents, the enforcement problems result in unsatisfactory punishments of the offenders, poor management in the hunting sector and poaching; technological violations in procurement of timber; littering of forest ranges with domestic waste; violation of fire safety rules; insufficient control over the sale of timber from timber-cutting areas by species and violations of sanctuary territories’ regime.

To understand the experts’ attitude to various aspects of the forest and environmental legislation in Ukraine, the organizers gave them a list consisting of nine statements. The level of the experts’ agreement or disagreement with each of those statements was established based on a scale of one to five where 1 stands for “agree completely” and 5 - for “disagree completely”.

<table>
<thead>
<tr>
<th>Aspects of legislation</th>
<th>n</th>
<th>Level of agreement (on a scale of 1 to 5)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Some legal norms inhibit the legal use of forest resources</td>
<td>26</td>
<td>3.2</td>
</tr>
<tr>
<td>There is an extremely complex procedure for controlling the use of timber and other forest resources</td>
<td>25</td>
<td>3.2</td>
</tr>
<tr>
<td>Particular legal norms inhibit the provision of equal and open access to forest resources</td>
<td>25</td>
<td>3.2</td>
</tr>
<tr>
<td>Particular legal norms are of a declarative nature</td>
<td>23</td>
<td>2.3</td>
</tr>
<tr>
<td>Particular legal norms are duplicated in various laws</td>
<td>24</td>
<td>2.4</td>
</tr>
</tbody>
</table>
Particular legal provisions of some laws contradict other laws 24 2.5

Practical implementation of legal provisions of some laws is impossible (or very improbable) 26 2.8

Structure of the forest sector and its norms (standards) is too cumbersome and unfit for practical use 25 3.0

Legislation incorporates obsolete and inaccurate norms that do not comply with the modern approach to the proper forestry management 24 2.5

Considering certain aspects of the forest and environmental legislation of Ukraine, the experts agreed that some legal norms are declarative and get duplicated in various laws, contradict provisions of other laws, obsolete and inaccurate. On the other hand, the experts reached less agreement that some legal norms hinder the legal use of forest resources and impede guaranteeing the equal and open access to forest resources and that the procedure for controlling the use of forest resources is extremely complex.

According to the experts, from among the various types of forestry activities, forest cuttings, the technology of forest exploitation, timber processing, exports of sawn timber and the hunting sector are most often related to cutting violations.

All the survey respondents found it difficult to answer the question about the norms of forest legislation which, if complied with, may result in the excessive usage of forest resources, the decrease of biodiversity and the disruption of environmental balance. More than a half of the experts admitted that they were not familiar with the norms of forest legislation and another six participants mentioned the absence of the norms resulting in the destruction of timbers and nature in general.

Experts’ assessments of the amounts of effective fines and compensations for damages caused by unauthorized cuttings appeared to be very diverse. While some respondents believed that the effective amounts of refunds were understated to a certain degree, others had the opposite point of view. Overstated penalties were mentioned by all the representatives of the state environmental protection authorities** and the majority of the representatives of the forest and industry sector. On the other hand, the majority of those representing non-governmental environmental organizations and the local intellectual elite believed that the amounts of financial penalties were insufficient.

For the purpose of enhancing the effectiveness of the enforcement of the legislation regulating prevention or minimization of illegal cuttings in Ukraine, the experts usually suggest the following: restructuring the forest sector, eliminating excessive regulation, specific and transparent timber procurement biddings; creating an exchange or an auction for raw materials; introducing the European system for log numbering, establishing the effective accounting for the assortment breakdown of forest products, creating the corresponding database; liquidating illegal processing factories that create demand on illegal timber; ensuring open access to the information regarding all enterprises and transparency of the state forest authorities’ bodies to the public and the local authorities; allowing the individuals to buy timber at reasonable prices; proper control over preservation of timbers and unbiased trying of cases of violations in the court; increasing amounts of penalties for violation of the forest legislation and increasing the number of staff, technical support and salaries of the State Forest Guard officers.

By no means all those polled were able to make suggestions regarding amendments to the forest legislation of Ukraine targeted at preventing violations and fighting against
those. This is why general statements were in place which could not be used as suggestions with regard to improving legislation.

More specific and well-thought suggestions with regard to the forest legislation included providing for timber products registration (number carving or tags) in the law; flexible regulation of the amounts of penalties and refunds, investing part of the amount of damage refunds into forestries and using it as financial incentives for the State Guard Service officers; strengthening the protection of the forest guard officers at the legislative level; formalization of subordination of all forest lands to one authority, concentration of forests in single owner’s hands.

According to the experts, the most common violations in the Ivano-Frankivsk oblast include: unauthorized / illegal cuttings, violation of the rules for (the technology of) timber procurement / forest development works and poaching practices. They also mentioned the absence of the proper control over assortment of forest products (understatement of grade), littering of forests, violation of the forest legislation, especially on the natural guard fund lands, violation of fire safety rules by forest visitors and subsequent forest fires.

The survey respondents assess the damage caused to the forest sector of the Ivano-Frankivsk oblast by the mentioned violations as rather significant in terms of both economic and ecological points of view. Some experts believe that unauthorized cuttings cause more than a half of the damage compared to the other violations of the forest sector. Most of the experts have recognized that the major damage resulting from unauthorized cuttings is in the uncontrolled reduction of rich timbers and the large reduction of the forest cover.

The polled respondents have rather diverse opinions about the scope of unauthorized cuttings in the Ivano-Frankivsk oblast in the total scope of timber procurement. All the responses given were divided into four principal groups based on the portion of illegal cuttings stated. It should be noted that four respondents were unable to give answers to this question.

<table>
<thead>
<tr>
<th>The Scope of Illegal Cuttings in the Ivano-Frankivsk Oblast in the Total of Timber Procurement (%)</th>
<th>Frequency of mentions</th>
</tr>
</thead>
<tbody>
<tr>
<td>The scope of illegal cuttings in the total amount</td>
<td></td>
</tr>
<tr>
<td>Less than 5%</td>
<td>11</td>
</tr>
<tr>
<td>From 6% to 15%</td>
<td>6</td>
</tr>
<tr>
<td>From 16% to 30%</td>
<td>4</td>
</tr>
<tr>
<td>31% and more</td>
<td>2</td>
</tr>
</tbody>
</table>

The lowest percentage of illegal cuttings in the region in the total amount of timber procurement was most frequently given by the representatives of the local authorities. The lowest number was voiced by the representative of the forest and industry sector, while the highest was given by the non-governmental organization representative. It should be mentioned that during the survey the representatives of the state environmental protection authorities gave very diverse portions of illegal cuttings in the total amount of timber procurement in the region.

The experts’ assessment of the portion of illegal cuttings which is detected and recorded by the forest guard officers and other controlling authorities in the Ivano-
Frankivsk oblast also appeared to be very controversial. Among various categories of experts the lowest number of the detected and recorded illegal cuttings in the total amount of such violations was given by the business representatives. However, the highest level of detection of such violations was mentioned by two representatives of the forest and industry sector.

<table>
<thead>
<tr>
<th>Portion of Detected and Recorded Illegal Cuttings (in %)</th>
<th>Frequency of mentions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less than 25%</td>
<td>5</td>
</tr>
<tr>
<td>From 26% to 50%</td>
<td>5</td>
</tr>
<tr>
<td>From 51% to 75%</td>
<td>3</td>
</tr>
<tr>
<td>76% and more</td>
<td>10</td>
</tr>
</tbody>
</table>

The assessment of the level of corruption in the forest sector of the Ivano-Frankivsk oblast by the survey respondents is very controversial. In particular, six experts believe that this level is higher than the average and another six experts have the opposite point of view. At the same time, the majority of the survey respondents assess the level of corruption in the forest sector as average.

The survey respondents mentioned bribes and bribing of authorized persons in order to prevent execution of the protocol on the violation of forest legislation as the most common types of corruption in the forest sector of the Ivano-Frankivsk oblast. They also mentioned land frauds and issuing illegal felling tickets by the forest guard officers. Again, instead of specific instances of corruption, the experts often pointed at the general situation conducive to illegal activities.

Practically none of the experts gave any specific example of violations or conflicts in the forest sector which caused the greatest concern. To assess the role of various organizations and institutions dealing with violations in the forest sector in the Ivano-Frankivsk oblast, the experts were given a list of nine statements. The role of each organization / institution was evaluated on a scale of five to one, where 1 point stood for the minimum and 5 points – for the maximum effect.

<table>
<thead>
<tr>
<th>Organization / institution</th>
<th>n</th>
<th>Assessment of the role (a scale of 1 to 5)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Customs bodies</td>
<td>20</td>
<td>3.5</td>
</tr>
<tr>
<td>Forest guard officers of forest companies</td>
<td>27</td>
<td>3.5</td>
</tr>
<tr>
<td>Oblast Environmental Inspectorate of the Ministry of Environmental Protection</td>
<td>24</td>
<td>3.4</td>
</tr>
<tr>
<td>Oblast Prosecutor’s Office</td>
<td>27</td>
<td>3.1</td>
</tr>
</tbody>
</table>
The role of various organizations / institutions of the Ivano-Frankivsk oblast in the fight with violations in the forest sector can be recognized as average. According to the experts, village councils and local non-governmental environmental organizations play the least important roles, while the most important one is attributable to forest guard officers and customs bodies. Attention is drawn to the fact that most of the experts failed to assess the role of customs bodies in fighting against violations in the forest sector of the region.

Most of the respondents believe that the efficiency of cooperation of state bodies, local authorities and the public in fighting with violations in the forest sector of the Ivano-Frankivsk oblast is very weak.

For the purpose of improving the cooperation between the stakeholders (state environmental bodies, local authorities, media and the public) in the area of forest law enforcement and protection the respondents suggested some institutional changes (creation of the new entities/frameworks); awareness-raising activities among the public and local communities; settling land relations between territorial communities and other land owners / users by means of approving land titles; mutual awareness-raising of all the stakeholders, openness and public discussion of the problems with legal enforcement and forest protection.

The experts also suggested specific steps aimed at minimizing timber theft and other violations in the forest sector. This is about the reasonable pricing policy with regard to selling forest resources to the local population; increasing the powers of the forestries; raising salaries of the forestries employees, especially those of the forest guard officers; compliance with the principle of unavoidability of punishment, strengthening the responsibility of officials by means of making corresponding amendments to the Criminal Code of Ukraine; proper accounting for timber materials through creating a relevant computer database; liquidation of illegal sawmills and companies that buy stolen timber; coverage of these offences by accessible web-sites rather than by the local printed media only.

Editor's Note:
* In course of this polling we did not distinguish the notions of “unauthorized” and “illegal” cuttings. The makes use of the term “unauthorized cuttings” and, respectively, the State Forestry Service statistics keep the record of the very “unauthorized cuttings”.

The State Forestry Service’s record-keeping proves that, in fact, these are the first and the second types of cuttings based on the Greenpeace classification (see below). In accordance with the State Forestry Service, the scope of such cuttings comprises 0.2 % of the total volume of timber procurement in Ukraine. The scope of “illegal” cuttings as the third category under the Greenpeace classification isn’t represented in the Ukrainian official statistics. Although this does not imply that there are no such violations.
Thus, while the conclusion that “the largest driving force behind the violations* in the forest sector of the Ivano-Frankivsk oblast is the social factor (unemployment, poverty, especially that of the residents in mountainous areas) and its derivative – low buying capacity of the local residents” can be undoubtedly imputed to unauthorized cuttings, the issue of whether it also pertains to illegal cuttings requires additional scrutiny.

“The Greenpeace experts suggest distinguishing three principal categories of illegal cuttings.

The first category includes unauthorized cuttings that are carried out by residents for their own needs (heating of their dwellings, construction materials procurement for small buildings and ongoing maintenance, etc.). The damage caused by the single unauthorized cutting of this type is usually minor, though such cuttings are the most wide-spread ones. The total volume of residents’ unauthorized timber procurement for their own needs is presently assessed as some 20 million m3 per year (or approximately 10% of the annual volume of officially procured timber in the forests of the Russian Federation).

The second category implies unauthorized cuttings carried out by the local residents and entrepreneurs for the sale or processing of the procured timber, i.e. stealing for lucrative purposes. This category of illegal cuttings differentiates from the first one due to the large volumes and also technical equipment of the perpetrators. Procurers of commercial timber have got the unofficial nickname “black timber cutters”. As a rule, they are well-equipped for timber procurement and have timber loaders, good liaisons with law enforcers and, if necessary, have security people who can be armed. The total volume of commercial timber which is procured without authorization is presently assessed as approximately 10 million m3 per year (or about 5% of the annual volume of officially procured timber in the forests of the Russian Federation).

The third category implies cuttings performed under permission documents, yet with gross violations of the effective rules; as a result, timber materials that are either unrecorded or recorded improperly occur. These offences include overcutting in terms of area (timber procurement beyond the borders of the permitted cutting sites), receiving excess timber as a result of low quality cutting sites allocation and taxation of cutting sites, receiving timber materials in greater volumes or of better quality following inappropriate selective cuttings, procuring the best timber under the guise of forest maintenance or sanitary cuttings. The total volume of unaccounted or improperly accounted timber procured as a result of such offences may be assessed as no less than 20 million m3 per year (or about 10% of the annual volume of officially procured timber in the forests of the Russian Federation).

Hence, according to Greenpeace, illegally procured timber amounts to at least 25% of the annual volume of officially procured timber in the forests of Russia or no less than 20% of the total volume of cuttings. Illegal commercial cuttings (illegal timber procurement for subsequent sale or processing for further sale, i.e. the second and the third categories) amount to at least 15% of the annual volume of officially procured timber in the national forests. In most of the cases illegally procured timber is legalized using a variety of methods, for instance through covering documents that enable to either export it or to deliver to the customers requiring confirmation of its legality. The most common method of legalization of such timber is assembling “mixed” batches consisting of both legal and illegal timber supported by documents for legally procured timber. Very often the same permission documents are utilized for delivery of timber to various users, while the sale is performed via long supply chains which origin can’t be tracked down.


**During the round-table that was organized by the FLEG Program in December 2009 in Ivano-Frankivsk some participants (representatives of the forest sector and law
enforcement authorities) explained that because of the high levels of penalties the latter can’t be levied on low-income offenders and, as a result, the courts reject claims for compensation of losses and penalties. As some representatives of the forest sector have it, it would be reasonable to set forth lower penalties and damages, while making sure that they are paid.

However, the very same round-table participants recognized that such situation was deliberately used in the schemes of illegal timber procurement (with the local residents illegally cutting timber and selling it to middle(wo)men on the cheap who, in their turn, sell timber at a higher price in Ukraine or overseas, or to the owners of “black” sawmills). Therefore, vulnerable citizens end up as a terminal link of such schemes and, given their social status, avoid punishment even in case of detention, while the organizers of such schemes remain out of reach of the law enforcement bodies.
Problems of the Forest Sector and Their Perception by the Residents of Forest Regions of Ukraine (as per mass polling findings). Olexander Stegnii, World Bank Consultant

The purpose of this survey was to study the attitude of the public and to determine a level of their awareness regarding such important issues as law enforcement, governance in the forest sector and a degree of related corruption, illegal cuttings, and access to forest resources by the local population and by small businesses. In addition, the survey was conducted to find out which legal norms, rules or current practices cause concerns among the public. Results of the polling will be used for developing a public communication strategy and at the stage of planning / preparing various measures under the FLEG Program implementation in Ukraine.

The SOCIS Center for Social and Marketing Research (Kyiv) held the mass polling of the local residents in three administrative units of the Carpathian region: the Skoliv rayon in the Lviv oblast, the Tiachiv rayon of the Transcarpathian oblast and the Bohorodchanka rayon of the Ivano-Frankivsk oblast. The choice of the specific administrative units in each of the named regions stemmed from the analysis of the customs database and expert assessments of the local foresters. In each district 400 respondents were polled. Based on their gender and age, these respondents represent the adult village population. Therefore, all in all 1,200 persons were polled in June 2010.

The survey organizers in the Carpathian area studied the public opinion with regard to such issues as the general assessment of the state of forest in their locality; a volume of cuttings and the role of timber procurement in the local economy; timber usage by the local private households; illegal timber procurement and the sale of stolen timber; opinions about the effective system of the forest sector maintenance.

Volume of Cuttings

Two thirds of the respondents believe there is overcutting in their locality, while one in five thinks that the volume of cutting is normal. Overcutting is mentioned by the majority of the surveyed village residents of the Skoliv rayon. However, in the rayons of Tiachiv and, especially, Bohorodchanka this point of view is shared by fewer respondents. More than one-fourth of the respondents from the last two administrative units think that the current volume of procurement is normal.

Most of the survey respondents believe that cuttings in their localities are normally performed by the private timber procurement firms. Almost half of the respondents noted in this regard the staff members of foresters and more than one third – hired brigades and temporary workers. Generally, this pattern of responses appears to be the same for three administrative units, except for, to a certain degree, the Bohorodchanka rayon, where the equal number of the respondents mentioned the private timber procurement firms and the staff members of foresters.

More than a half of the respondents are convinced that over the last five years the volume of cuttings in their localities has grown, while more than 25% of the respondents pointed at no changes and nearly one in ten mentioned its decrease.

75% of the surveyed residents of the Skoliv rayon pointed out the increase in the volume of cuttings for this period, while on average one third of the respondents of the Bohorodchanka rayon and those employed in the forest sector of the Carpathian rayon share such assessment.
Timber Procurement and the Economy, Exports of Timber

The vast majority of those polled believe that timber procurement plays an important or rather important role in the economy of their district. About a quarter of the respondents have the opposite point of view and almost one in ten respondents failed to answer the question.

The importance of timber procurement for the local economy of their area was mentioned most often by the residents of the Bohorodchanka rayon and the respondents whose work is related to the forest sector, timber procurement or sales of timber. However, almost one third of the respondents from the rayons of Tiachiv and Skoliv believe that timber procurement is of secondary importance for the local economy.

According to the respondents, among the three districts, the major part of male population engaged in timber procurement and processing lives in the Skoliv rayon and the least part resides in the Tiachiv region.

One half of the survey respondents are aware of the overseas (export) sales of timber procured in their locality. Generally those aware of the sales of local timber abroad believe that the major part of timber is exported. However, the respondents from among those engaged in the forest sector most often speak about an insignificant part. Certain controversy revealed in the responses requires employing additional statistical and other information materials for clarification of the real situation.

Among the polled residents from three districts of the Carpathian area, residents of the rayons of Skoliv and Tiachiv pointed out the major part of exports of the local timber, while the situation with the Bohorodchanka rayon is quite opposite. Only in this area the majority of the respondents stated that the exports of the local timber were insignificant.

Firewood for Heating and Timber for Personal Household Needs

Regardless of a particular administrative unit polled, the absolute majority of respondents use timber for heating of their dwellings and almost half of them – for ongoing construction and maintenance of their dwelling. Less than two per cent admitted that they buy timber to saw it into planks for subsequent sale.

On average almost half of the respondents use from five to ten cubic meters of firewood during the heating season. One in five survey participants mentioned that his/her family didn’t use timber to heat their dwellings. From among the survey respondents, the residents of the rayons of Tiachiv and Skoliv use most of timber for heating, while in the Bohorodchanka rayon a half of the families don’t use firewood for heating their houses.

Regardless of the area polled, there are rather wide-spread practices of the combined purchasing of firewood by the local population, which envisions combining legal purchases with relevant papers issued and unofficial purchases without any papers. The ratio between the official and unofficial methods of purchasing timber has its peculiarities depending on the surveyed area. While in the rayons of Bohorodchanka and Skoliv firewood is purchased mainly with issuing a waybill by the forest company / local forestry, in the Tiachiv rayon the most common practice is purchasing firewood from private entrepreneurs without documents. Also it should be noted that more than a quarter of the surveyed residents of the Skoliv rayon reported procuring timbers independently by cuttings without documents.

More than a half of the respondents mentioned that they couldn’t afford buying timber because of its high prices; at the same time, the second most frequently mentioned two problems are, in fact, the following: delivery and delays in issuing documents. Overpricing of timber was reported by all the survey participants regardless of the fact of their employment, self-evaluation of the property status of their families and the
administrative unit of residence. As for difficulties in purchasing timber, compared to other respondents, the residents of the rayons of Skoliv and Bohorodchanka mentioned delays while issuing the necessary documents by forestry more often.

Prevalence of Illegal Timber Procurement and Legal Responsibility

More than one third of the residents from the Skoliv rayon mentioned that they had often heard about cases of illegal timber procurement and sales of stolen timber; however, about a half of the respondents from the Tiachiv rayon had never heard about such occurrences within the territory of their district.

Nearly 40 per cent of the survey respondents reported knowing about cases of bringing the culprits of illegal timber procurement to justice. Furthermore, from among the surveyed residents of the rayons of Skoliv and Bohorodchanka more than 40 per cent are aware of such cases, while in the Tiachiv rayon there appeared to be less one third of such informed respondents.

More than two thirds of the survey participants name cases of imposing penalties by the forest guard officers with issuing of a protocol and more than one quarter of the respondents are also aware of the cases of forwarding a criminal case to the court and the issuing of sentence. The respondents from the Tiachiv rayon mentioned most often the fines by the forest guard officers with issuing protocols, while the surveyed residents from the Skoliv rayon mention more often the forwarding of criminal cases to the court with issuing of sentence.

Reasons of Violations

Regardless of the area of residence, the vast majority of the respondents believe that the lack of funds to purchase timber and financial vulnerability of local residents forces them to make illegal cuttings. The least number of respondents mentioned local citizens’ reluctance to undergo the procedure of formalizing the purchase of timber from the forestry as a reason for illegal cuttings.

One third of the surveyed residents from the Skoliv rayon mention that the accessibility of timber provokes illegal cuttings by the local residents. At the same time, compared to other respondents, fewer survey participants from this district believe that weak controls over forest protection and the lack of a proper punishment for offenders result in illegal cuttings. In their turn, the respondents from the Bohorodchanka rayon mention lucrative motives and local residents’ reluctance to undergo the procedure of formalizing the purchase of timber.

Effectiveness of the Forest Guard Service

More than a half of the respondents tend to think that the local foresters have sufficient authorities to protect forests from illegal cuttings. More than a quarter of the respondents do not agree with the previous statement and the rest of respondents were unable to answer. The respondents who believe that the foresters have sufficient powers mostly come from the Skoliv rayon, while the respondents from the Tiachiv rayon are convinced that they lack powers.

The survey participants are rather skeptical about the forest guard service effectiveness in terms of detecting facts of illegal cuttings in their administrative unit. The most critical were respondents from the rayons of Tiachiv and Skoliv. However, more than one third of those engaged in the forest sector believe that there are many illegal cuttings that can be detected by the forest guard service. It should be noted that all the categories of respondents had a high specific weight of those who failed to answer. In most of the cases
the fact that the survey respondents face difficulties in answering can be explained not only by the lack of the actual information about the work of the forest guard service, but also by a certain degree of counter-insurance and unwillingness to ruining good relations with the officers of the local forest guard service.

As the respondents have it, the most common form of illegal procurement and trade in timber is the possibility to turn to the middle(wo)man who buys timber from foresters and bring it to one’s own household. More than one fourth of the respondents mentioned the possibility to negotiate with a forester and to cut anything you want by paying him/her in cash, in which case s/he would issue the necessary supporting documents.

One of the most common forms of illegal procurement and trading in timber ever occurring in the Skoliv rayon is purchasing timber from a forester or a timber procurer in the cutting area without official permits. Still, more than three quarters of the respondents from the Tiachiv rayon mentioned the possibility to resort to middle(wo)man’s services in case of purchasing timber.

More than a quarter of the respondents believe that the most common offence in the work of sawmills is timber purchase without the supporting documents and more than 11 per cent mentioned the absence of permission papers for sawmill activities. The latter violation was mentioned most often by the respondents from the Bohorodchanka rayon.

**Organized Groups of Poachers, Offending Foresters**

Only 11 per cent of the survey respondents heard about any groups dealing with illegal cuttings and selling the stolen timber in the administrative unit of respondents’ residence. The respondents from the Skoliv rayon are most aware about these groups, though in the rayons of Bohorodchanka and Tiachiv twice as few respondents heard about illegal operations of these groups.

Almost one third of the respondents from the Skoliv rayon believe that there are many offenders among the forest guard service officers in their district, though in the Bohorodchanka rayon only 7 per cent of the respondents shared such statement.

**Assessment of the Forest Sector Maintenance Quality**

According to the respondents, the timber-processing companies and the exporters of timber products derive the largest economic gain from the local forest, while the local budget gets the smallest one. As the polled residents from the Skoliv rayon have it, the timber-processing companies get the highest gain from the local forest, while in the Bohorodchanka rayon the respondents singled out three entities: the forest sector, the timber-processing enterprises and the exporters of timber products. At the same time, the respondents from the Tiachiv rayon mentioned the highest economic gain derived by two entities, i.e. by the timber exporters and the timber processing enterprises. It should be noted that in the latter district a minimal number of the local rural residents mentioned the gain derived by the forest sector.

Generally, the polled participants assess rather negatively the current framework of forest sector maintenance, timber procurement and timber sales in the administrative unit they reside in. Particularly, more than one third of the respondents share the opinion that this framework has a number of serious drawbacks that should be eliminated. Approximately the same number of survey participants believes that in general this framework doesn’t operate in a proper way and requires serious modifications. From among the three administrative units polled, the residents from Bohorodchanka district rayon assess the current forest sector framework most positively and the residents of the Skoliv rayon – most negatively.
Ownership of Forests, the Expediency of Creation of an Independent Authority to Control Foresters and the Expediency of Reinforcing the Responsibility

More than a half of the respondents suggested reinforcing the responsibility for illegal cuttings with a view of promoting changes for the better in forest sector maintenance, timber procurement and timber sales. Still, the fewest number of the survey respondents support privatization of forests and their transfer into private ownership. It is of interest that there are more respondents who favor the strengthening of powers of the forest guard service by introducing appropriate amendments to the legislation, as compared to those who endorse the idea of creating an independent authority for control foresters and depriving it of forest preservation powers.
Corruption Risks in the Forest Sector. **Olexander Banchuk, World Bank consultant**

The purpose of this study is to obtain a complete and all-round analysis of the forest legislation of Ukraine in terms of corruption risks. Findings of the study and recommendations which will be developed based thereon will promote transparency, integrity and accountability of the effective forest legal framework and law enforcement. In particular, the objectives of the study were as follows:

- to identify corruption risks and provisions of the forest law which envision possibilities of corruptive actions and decisions by government authorities empowered to approve decisions and carry out regulatory activities;

- to develop a classification of corruption factors that could subsequently underlie legal acts and resolutions, and actions or inaction of the law enforcers;

- to assess the existing and / or potential corruption risks arising from ambiguity of the legal provisions;

- to provide recommendations on the ways to minimize / eliminate the current and potential corruption risks in the forest law.

The main object of this study was the forest law and the system of forest sector authorities, their powers and structure.

It should be noted at once that the risks identified in course of the study are characteristic not only of the sector, but also in terms of the whole system of the Ukrainian government agencies. However, the situation in the forest sector specifically is complicated by the fact that the respective government agencies and institutions manage a significant economic resource – forest. So, the excessive role of the state in the management and disposal of the timber products is a significant risk of corruption itself.

The authors believe that other corruption risks are as follows:

**1. The conflict of interest incorporated in the status of the State Forestry Committee (SFC).** The powers of the SFC combine two mutually exclusive functions:

- development of the policy and actual exercising of administrative powers. It allows the authority to adopt favorable bylaws designed to regulate the order of executing administrative powers;

- provision of permits and review of compliance with permitted conditions. It leads to the fact that the effectiveness of the inspection activities of the forest sector authorities remains at an extremely low level, since the identification and documenting of violations at the same time means the recognition of the incorrectness of its own prior decision on granting a specific permission. Also, the authority is put in the situation, when “the right hand has to punish the left hand”;

- protection of forests and maintaining a profitable forest sector;

- exercising government powers and performing economic activities.
2. **The lack of transparency in the activities of SFC.** In open sources (especially web-sites of the oblast forestry and hunting departments) there isn’t enough relevant information. The procedures for involving the public in adopting important decisions on the allocation and granting for use of forest land plots (Part 3 of Article 17, Parts 3 and 5 of Article 18 of the Forestry Code), approval of the estimated cutting area (Part 4 of Article 43 of the Forest Code), construction of hazardous facilities (article 60 of the Forest Code), etc., are missing.

3. **The current status of the forestry staff members.** The system of forest sector authorities is based on a strict hierarchy, being similar to the frameworks of the law enforcement bodies. The forestry staff members are fully dependent on the management in terms of hiring, career development, salary, vacation and firing. That is they do not have the status of public servants which is characteristic of the modern democratic societies. The situation worsens by the non-transparent mechanism of labor remuneration and its low amount.

Still, disciplinary measures are ineffective, which is evidenced by the results of inspections. In some forest companies violations are regularly (year in year out) revealed with penalties imposed. Thus, the purpose of inspections isn’t met, i.e. the prevention of violations isn’t ensured.

4. **The complexity of forest management procedures.** Too many government agencies are involved in the provision of administrative services (e.g. granting forest in temporary use, change of the designated purpose of forest land plots, transfer of forest land plots to non-forest ones, etc.) and they produce lots of interim decisions (opinions, approvals, etc.). This necessitates a recipients’ contact with a large number of authorities. In addition, in this case the legislation creates a kind of the system of “covering each other’s backs”.

There are also substantial differences in the regulation of procedural actions by different regulations. The laws do not regulate these procedures fully and clearly. The maximum term of services provision is unreasonably large or the regulation of its length is absent at all. The fee for administrative services is not clearly regulated.

5. **The poor forestry legislation.** The bylaws do not reflect the realities of the time and the provisions of laws in this area, whereby the principle of legality is violated. All the procedures in the forest sector are regulated by more than one normative act. This intensifies possibilities for abuse by the officials.

Having the “interim” status, many of the rules are being in effect for a long period of time (for example, the interim procedure for granting the certificate of timber origin has been already in effect for 4 years). Letters, recommendations and clarifications of SFC are of a binding, rather than recommendative, nature. Bylaws in fact substitute laws, establishing, inter alia, additional responsibilities for the officials and forest users (for example, for issuing a certificate of timber origin the Order of the SFC requires submitting two extra documents).

6. **The insufficient guarantees of the forest preservation.** The effective legislation does not allow for the reliable prevention and stoppage of abuse in the course of land allocation for residential construction on forest lands, timber procurement in violation of the general procedure for cutting of the main use, etc.

7. **The powers of the forest sector authorities in terms of suspending / banning entrepreneurial activities.** These powers are not clearly regulated in terms of the grounds
and the terms of use of these restrictive measures. The forestry officials are granted the possibility to make decisions on the limitation of certain activities of individuals at their sole discretion. The legislation does not limit their discretion in any way.

8. **Powers of the forest sector authorities in terms of uninterrupted obtaining of information, access to premises**, violate the right to private ownership and the right of a person not to give evidence against him/herself. Corruptive abuse in exercising these powers lies in the officials’ ability to hide or provide information derived using the existing (simplified) order, to blackmail people with these data, etc. Since the information on the instances of administrative crime or offense, revealed during such “uninterrupted” inspections, may be hidden from other controlling or law enforcement bodies in exchange for a corruption “fee”.

The regulations stipulate the obligation to pass the obtained information to the investigating authorities in the event of revealing circumstances which may indicate the commission of criminal offenses. On the other hand, these powers can be used by the investigating authority attempting to bypass the complicated procedures (with mandatory obtaining of a court order) to investigate a criminal case. Thus, the mentioned information can also be obtained upon “request” of the respective pre-court investigation body. That is the data obtained during the administrative proceedings are used during the pre-court investigation and court investigation of criminal cases. The main danger to people is that these facts are obtained without observing the basic criminal and procedural guarantees of protection of individuals’ rights.

The corruptive nature of this risk also lies in the actually unlimited powers of the forest sector authorities.

9. **The collection of slap-on-the-wrist fines.** It creates opportunities for unscrupulous officials to receive money from offenders without issuing receipts.

The legislation creates situations where a person is face to face with the official and does not know precisely an amount of the fine, the procedure for its collection or appeal against it, being under psychological pressure because of the possibility to be taken to police bodies. It should be noted that it is mostly about small fines. However, given the described terms of application of these penalties and the lack of sufficient information for the people, the amounts of unofficial payments may be significant. It is often beneficial for the individuals to enter into informal relations with the representatives of the forest sector authorities, as they are aware of the fact of committing the violation and do not want to appear before the police bodies. Thus, the current mechanism makes it possible for the officials to receive illegal remuneration.

10. **The controlling bodies focus on the punishment of violators, rather than on the elimination of violations**, which arises from the existence of annual “unofficial” plans for the number of revealed violations and the amount of collected fines.

The statistical data show that the amounts of the fines transferred to the Budget remain stable from year to year and tend to slightly increase. Therefore, it can be concluded that the number of violations remains permanent and the same.

Such a focus is in-built both in terms of the State Forest Guard which are pushed by this risk to too picky inspections, specifically those of other forest users (forests of other institutions, etc.) and of other controlling and law enforcement bodies from the inspections of which the state-run forest companies suffer themselves.
11. The concurrence of corpus delicti in administrative offenses and crimes. This allows the respective authority to recognize the same act as either an administrative offence or a crime at its discretion. This possibility stems from the fact that the law distinguishes between many administrative offenses and crimes, as a rule, only based on the amount of damage caused. Still, an authority may wrongly recognize the act as an administrative offense, followed by the imposition of penalty, or as a crime - and forward the collected materials to the investigative or pre-court investigation body for initiating a criminal case.

12. The unconstitutional nature of the procedure for bringing forest law violators to responsibility. It is reflected, in particular, in the fact that the tariffs for the calculation of the damage caused are established at the level of a bylaw rather than a law. On the other hand, the forest companies themselves are brought to responsibility for forest damage by unidentified persons, i.e. for what they did not do.

Therefore, in order to reduce the manifestations of corruption a comprehensive revision and alterations to the forest legislation (in particular, the new revision or amendments to the Forest Code), the introduction of institutional changes (improvement of the forest sector governance system) and the enhancement of the status of the officials of the forestry authorities are required.
On Approximation of the Ukrainian Forest Law to the EU Law. *Vitaliy Storozhuk,*
*World Bank consultant*

The purpose of the survey was to determine the extent to which the Ukrainian forest law complies with the EU legal framework of sustainable forest management. The findings of this paper and recommendations based thereon are to become an impetus to taking measures on creating a mechanism for approximation of the Ukrainian law to the EU legal framework of sustainable forest management. The survey objectives were, inter alia, as follows:

- to analyze the effective Ukrainian forest law and bylaws in terms of compliance with the standards and legal provisions of EU Directives on forest management;
- to analyze the impact from best international practices aimed at incentivizing sustainable forest management on the process of the Ukrainian forest law development;
- to develop recommendations on the approximation of the Ukrainian forest law with respective EU legislation.

**EU Forest Acquis Outline**

The EU forest law has no specific scope and bounds. The corps of EU member-states’ rights and obligations, the so-called “acquis communautaire” of the European Community, which has to be adopted in full by candidates before their accession to the Union, has no separate forestry acquis. The papers on forest management constitute a part of the legal and regulatory frameworks of several common EU policies, in particular the agricultural policy and the policy for the development of agricultural territories, the environmental policy, the energy policy and the policy for the development of the domestic market, etc. So, the regulations that can be included into the conventional forest acquis are in fact a part of the “environmental” and other EU acquis.

At some point the legal fundamentals for reaching compliance of the Ukrainian national law with the EU acquis communautaire were set forth by the National Program on Approximation of the Ukrainian Law to the EU Law (2004). Under the EU-Ukraine Agreement on Partnership and Cooperation (1994), environmental law approximation was considered one of the priority areas for program implementation. Yet, no adequate mechanism for approximation of the Ukrainian forest law to the EU acquis communautaire has been in place so far. The recent overview survey “The Comparative Analysis of the Ukraine’s Forest Law and Related Legal Acts in terms of Compliance with the EU Law on Sustainable Forest Management” performed by Vitaliy Storozhuk, a World Bank consultant, under the ENPI-FLEG Program can become an impetus for taking measures on creating a mechanism for law approximation, as envisioned by the National Program.

**Political Will. Approximation Costs**

The general overview of the processes of the sustainable forest management concept implementation in the European Union covered in the first part of the survey shows that the Ukrainian law won’t be able to meet provisions of the EU forest acquis in the near future. The comprehensive work on approximation of the Ukrainian forest law

3 The ENPI-FLEG Program stands for the Improving Forest Law Enforcement and Governance in the European Neighborhood Policy East Countries and Russia Program.
to the EU law can begin with drafting new forest legislation, subject to political will of top officials from forest sector government agencies.

An important factor for success of such activity can be incorporating a list of forest *acquis* adoption actions into the National Program on Approximation of the Ukrainian Law to the EU Law. At that, one should consider the experience of Eastern European countries’ accession to the EU which depicts that overall costs on the law approximation activity are rather high. According to the European Commission’s estimates, candidates may spend 2-3% of their GDP per annum over a number of years to ensure complete adoption of *acquis* in terms of implementation of the environmental requirements only. Ukraine remains beyond European Community financial instruments and programs and, therefore, has to incur full law approximation costs on its own. Still, these costs can be quite related to financing sustainable forest management in the modern European sense.

**Sustainable Forest Management in Ukraine: New Labels, Old Goods?**

The sustainable forest management concept is a fundamental idea of the entire EU forest law, since all Directives, regulations and decisions that are legal instruments on EU forest sector development start with a reference thereto. Having declared general objectives and priorities in the Forest Strategy in 1998, in 2006 the European Community clearly defined programmatic objectives and tasks on sustainable management in the EU Forest Action Plan and in a number of national rural development programs that implement economic objectives in accordance with the Regulation on Rural Development Policy of 2005.

As against EU countries, the sustainable forest management concept hasn’t been widely reflected in the Ukrainian forest law. Ukraine and the EU use different sustainable forest management vocabularies, both literally, in terms of the glossary of terms, and in terms of the conceptual framework. Introducing the terms related to “sustainability” into the Ukrainian forest law is only the beginning of the genuine “harmonization of the national forest law with international sustainable forest management principles”.

**The EU Forestry Policy**

The EU Forestry Strategy of 1998 states that the forest policy lies in the competence of the Member States, but that the EU can contribute to the implementation of SFM through common policies, based on the principle of subsidiarity and the concept of shared responsibility.

According to the principle of subsidiarity, member states are in charge of planning and implementing national forest programs. Almost all the EU member states, including new members, have drafted and passed national forest programs or their equivalents, and also developed a general mechanism and approaches to the process of forest policy preparation. In the framework of the State Program “Forests of Ukraine” for 2010-2015 the formal approach of the Ministerial Conferences on the Protection of Forests in Europe wasn’t adhered to in developing national forest programs. The uncritical approach to involving stakeholders and cross-sectoral discussions resulted in the conditional nature of some program indicators. For example, such a priority indicator as “improving forest cover” which has been revised four times since 2000 and envisions afforestation of 430,000

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4 The State Program “Forests of Ukraine”, as approved by the Resolution of the Cabinet of Ministers of Ukraine no. 977 dated Sep. 16, 2009.

5 One of the Fundamental EU principles under which the Community takes any actions only when they are more effective than respective actions on the national, regional or local levels.
hectares over 2010-2015, and 2,175,000 hectares for the “optimal” forest cover. However, territorial bodies of the State Forestry Committee have discovered only 308,000 hectares of degraded and low-yield agricultural land and 140,000 hectares of land covered with ravines, catchments and other lands that can be afforested. Still, the matter is even beyond figures. The main issue is transferring this land for afforestation, given the complicated, long-lasting and cost-intensive mechanism of land transfer.

**The Forest Policy and the Forest Law of Ukraine: the Road to Where?**

The general nature of the sustainable forest management concept, the conditionality of separating forest *acquis*, the implementation of the national forest policy in view of the principle of subsidiarity and shared (one's own) responsibility – what in general will this require from Ukraine, should a decision be taken to carry out real approximation of the Ukrainian forest law to the EU law?

In practice this means that the entire forest law, expect for its part directly falling under the effect of EU *acquis communautaire*, is formed by the State of Ukraine and is implemented, at their own discretion, by national forestry bodies to secure national interests. Is it possible that alterations to the law can be lipstick only? No! It is not about transferring the terms, introducing amendments and alterations to ensure implementation of *acquis*, it is not even about a significant change in approaches to the operational forest management. All this has been undergone by candidate states some time ago. The difference is in an up-to-date direction of the forest law and the forest policy in Ukraine and the EU.

**EU Forest Action Plan in Ukraine**

The framework of activities in the forest sector of the European Community and member states for 2007-2011 were laid down by the EU Forest Action Plan of 2006 which highlights eighteen key actions under four major objectives, i.e. improving long-term competitiveness; improving and protecting the environment; contributing to the quality of life; fostering coordination and communication.

The Forest Plan puts in first place research of the competitiveness of the EU forest sector. In Ukraine the issue of conducting of a survey on the status of, and perspectives for, the forest sector economic development by the central executive authority in the field of forestry jointly with the central executive authority in the field of industrial policy hasn’t been raised so far. This survey can incorporate the analysis of the development, assessment of the status and the forecast for structural changes on the timber market, in particular those caused by the economic crisis. This will, finally, enable assessing the competitiveness of the state forest sector of Ukraine and determining measures to ensure its competitiveness. As experience of many other European countries shows, such surveys can form a basis for economic objectives of a Ukraine’s national forest policy paper.

**Forest and the Environmental Policy**

Key actions aimed at improving and protecting the environment cover fulfilling liabilities and introducing adjustments to climate changes, achieving objectives on preservation of biodiversity and development of the European forest monitoring system.

The use of biomass for energy needs is considered as the most important contribution of the European forest sector in achieving the goals of the Kyoto protocol during the first reporting period of 2008-2012. The Government of Ukraine attaches strategic importance to using timber as an alternative source of energy. This is self-evident,
as, in terms of comparison, according to FAOSTAT, in 2008 Latvia produced 3.725 billion m$^3$ of fuel chips, while Ukraine - only 112 million m$^3$.

The Ukrainian forestry is the only national economy sector where greenhouse gases are absorbed. The absolute annual volumes of greenhouse gases adsorbed in the forestry are comparable with the volumes of emissions from national agricultural activities. There is no joint implementation project on afforestation in Ukraine, while the project on creation of a protective forest stand on radionuclide-contaminated land in the Polissia area, developed with the assistance of the World Bank, wasn't implemented due to the lack of the legal and regulatory framework for World Bank project implementation and insufficiencies of the state carbon unit pricing mechanism at that time. Furthermore, carbon unit transfer contracts requires legal formalization of the ownership right to lodged carbon in the forest law of Ukraine.

Nowadays, increasingly more often European initiatives deal with adjustment to climate changes rather than preventing them. Given their irreversibility, it is time to draw up a list of adjustment measures, since challenges of adjustment and associated costs are expected to exceed prevention costs. How feasible is it to carry out afforestation expansion in the steppe area in terms of the policy on adjustment to climate changes?

One of such afore-mentioned European initiatives is Natura-2000 which is the core component of the EU policy on nature protection and biodiversity preservation is Natura-2000. This is a network of protected plots arranged in accordance with the 1992 Habitats Directive. The goal of the network is to provide long-term preservation of species and landscapes that are the most valuable and are under the threat of disappearance or destruction in the EU. Natura-2000 is not a system of natural preserves where any activity is prohibited, as on the vast majority of the territories farming is performed. Today the network is fully formed, covers an area larger than the territory of Germany and comprises 17.6% of the EU territory (2009). The European Commission provides information on the complete list and map of sites of Natura-2000. There are no Natura-2000 plots in Ukraine. To date pilot projects on the research and identification of Natura-2000 plots have been implemented only in the Carpathian region. Let us note that the Directives on Natura-2000 are part of the environmental *acquis*, which is why in candidate members considered their preceding implementation an important action contributing to complete accounting for their nature heritage, and plots had to be determined before accession to the EU.

**Forest for Villagers and Rural Territories**

The EU Forest Action Plan sets forth six key actions on fostering coordination and communication. This is the reason why this survey has analyzed the way state programs in various economy sectors interact in implementing the state programs in the forest sector of Ukraine. Different state programs rely on different forest sector perspective indicators that aren't coherent in spite of the compulsory procedure for their clearance by various ministries and institutions.

The Regulation on Rural Development is a major tool for implementation of the EU Forestry Strategy. The EU Forest Action Plan envisages specific measures that can be endorsed by this Regulation. Neither the Law of Ukraine “On the Fundamentals of the State Agrarian Policy until 2015” nor the draft State Target Program for Sustainable Rural Development until 2020 incorporates forest maintenance objectives and tasks among comprehensive rural development priorities. However, it would have been logical if the national forest policy of Ukraine had been integrated into the rural development policy, following the pattern of EU member states; and this should be so not only with regard to Eurointegration tasks.
FLEG and Sustainable Forest Management

Intensifying international competition resulting from the process of globalization has made the EU forest industry face new challenges, in particular harsher competition in terms of supplies of both round timber and processed products from countries where forest cover growth rates are higher than production costs (timber, energy, labor force), while environmental and social requirements are less stringent. The question is why should EU member states invest large funds into sustainable forest management rather than procuring illegal timber at far lower prices compared to the costs of “domestically produced” timber? Hence, the 2003 EU FLEGT Action Plan obliged the European Commission to analyze legal possibilities for regulation of imports of illegally procured timber into the EU. In December 2005 the Council of the European Union adopted the Regulation on the Establishment of a FLEGT (as compared to mere FLEG, here Forest Law Enforcement and Governance were added up with Trade) licensing scheme for imports of timber into the European Community and empowered the European Commission to start negotiations with third countries willing to conclude voluntary Partnership Agreements. Since 2008 there have been intense discussions of the Regulation that lays down the obligations for operators who place timber and timber products on the European market. Political agreement on the Regulation is expected to be reached soon and come into forth next year. In practice this means that should Ukrainian companies sell timber on the EU market, they will have to affirm its “legalness”.

Ukrainian Forestry Integration Breakthrough or What We Should Do Urgently

The absence of the unified forest policy, overall economic mechanisms for regulation of various patterns of ownership, the weak system of getting accurate data on forests, large differentiation in terms of economic capacities of forest sectors in various member states – all of that used to be conditions for formation of the EU forest policy more than a decade ago. Today the European Union is heading towards competitiveness of the forest sector. It should be taken into account that most of the strategic papers that set forth the development of the Union in general cease to be valid in 2010, while forest 
acquis
regulations terminate in 2011-2013. So, in the nearest years the European Union will update its legislation, inclusive of the forest law. What should be done to make the ways of development of the forest sector of Ukraine and the EU coherent?

First of all, it is suggested that development of the paper titled “The Forest Policy of Ukraine” should be launched. In course of its preparation one should:

■ explore competitiveness of the forest sector;

■ examine possibilities of creating of a national (or regional) company (ies);

■ review the Ukrainian timber products market and prepare its forecast;

■ analyze the status of, and perspectives for, development of the non-wood products market;

■ determine top-priority actions on forest adjustment to climate changes.

Secondly, in parallel with introducing necessary amendments to laws or bylaws, one should carry out the nation-wide inventory-taking of: (i) forests in order to improve the state forest accounting system; (ii) valuable land plots – by analogy with Natura-2000; and (iii) forest shelterbelts – in order to include measures on development of the state system of forest reclamation into the state program “Forests of Ukraine”.


Thirdly, the general trend in development of the EU forest policy and law requires making necessary amendments to the draft State Target Program for Sustainable Rural Development until 2020, namely introducing sustainable forest management measures into it.

At some point, when the Forest Sector Reform and Development Concept of 2006 was approved, it was envisioned that its implementation would promote “approximation of Ukraine’s forest maintenance norms with respective EU criteria”. The state program “Forests of Ukraine” for 2002-2015, revised on the basis of the Concept, incorporates no such approximated norms and criteria (as of 2009). So, after all, whither goest thou, Ukraine?
Analysis of Publications

Problems of the Ukrainian Forest through the Eyes of Journalists. Oleg Lystopad, World Bank consultant

The purpose of the study was to identify patterns in the coverage of problems of forest law enforcement and management by journalists.

126 notes and articles of from the Ukrainian web-sources over the first nine months of 2009 were analyzed. The researchers revealed regions where the journalists more often covered the problems of forest law enforcement and management, which media are the most active in highlighting the subject, the press services of which state and other organizations provide most of the information events. The analysis of the content and topics of the reviewed publications was also performed. It showed that most frequently the following topics came to the sight of journalists: “Illegal Cuttings”, “Environmental Law Violations at Forest Companies”, “Speculations with the Forest Lands”, “Smuggling of Timber”, “Participation of Forestry Staff Members in Illegal Bargains”, “Exposure of Forestry Staff Members”, “The Forest and Local Residents”.

1. Illegal cuttings

The lion’s share of the publications presents a summary of violations: one lumberjack-poacher or more have been arrested, a car with stolen timber has been detained, etc. Also there are common notes-reports by the controlling bodies: over the year (as of early next year), over one or two months (usually – over the first months of the year), over the quarter, over six months, over three quarters.

Typically, these notes do not allow realizing the scale of illegal cuttings (no comparison with the volume of cuttings in the country in general, etc.; just absolute figures given without any analysis). Some notes report a number of trees cut, the others – the losses in hryvnias. And if both facts are given, it is still unclear, whether the number of violations and the amount of damage caused by them increases or decreases each year. Usually, it is unclear why the violations occur: either because the violator does not have enough money to pay for firewood or due to unemployment (stealing wood is the only way to earn some money), or because such “business” is profitable and, thus, attractive. It is also unclear from the publications what hinders effective fight with violations: imperfection of the law or the lack of real punishment, “shortcomings and drawbacks” of the court or prosecution, or the amounts of fines.

Nevertheless, some conclusions can be drawn from the published materials: it is possible to fight unorganized poachers even under the effective legal framework. Here, first of all, good cooperation of the forest guard and police is required. And there are such positive examples. It is also evident that the state machine works quite properly in cases of detention of unorganized lumberjack-poachers: the notes contain examples of successful detection of violators and their detention, the cases are forwarded to the court, damages are calculated, etc. However, there is practically no information about sentencing or recovery of losses or how it affected the villagers, whether it has put off their desire to steal timber in future, etc.

Somewhat more complicated is the situation in cases where there are organized groups of illegal lumberjacks. Then the collaboration with the district policemen is not enough, “Berkut” (special assignment unit of the Ukrainian police) or similar is required.
Some of these violators are also successfully detained, but in one of the analytical publications a journalist convincingly argues that when these groups operate to supply the whole system of sawmills, then they, as a rule, tend to ignore all the laws. Similar conclusions are made in several publications, especially if the timber has already turned into “real” money and the cost of the stolen counts in millions. The forestry staff members themselves complain about such situations in a number of publications.

When it comes to large-scale cuttings, the system of punishments usually is stuck. Such cases are not reported by the information agencies, but journalists write about them in major critical materials.

In this same section one should mention the information about the cases of revealing unaccounted-for (“shadow”) timber at private companies, usually - sawmills and carpentry shops. But if some cases the stories cover the successful inspections of such companies, others deal with the difficulty of inspecting such companies and legal obstacles for their performance and control of such companies in general.

2. Violation of the environmental legislation at forest companies

Information of this kind usually occurs after the planned inspections of the State Environmental Inspectorate. It is about non-compliance with the rules of cutting: logging residue isn’t removed, wood is wrongly logged, underwood is damaged, etc. Such violations as cutting beyond the cutting area, etc., are also frequent and, as a result, a portion of the timber is classified as illegally cut. The amounts of claims for damages to the environment can be quite significant - tens or even hundreds of thousands hryvnias. Claims to the companies are in place, but only one publication indicated that they were paid.

3. Fraud with the forest lands

Such violations are also detected during scheduled and unscheduled inspections, both by the State Environmental Inspectorate and other controlling bodies. They count hectares and sometimes tens of hectares. For example, once 70 hectares of forest somehow “disappeared” from the report. Interestingly, in this case not only criminal proceedings were initiated, but also the company director was dismissed. This is the only mention of such punishment in all the publications. Most of the manipulations with the forest lands occur in suburban forests. Typically, the law enforcement bodies in such cases keep silent and the journalists note that the reason is the interest of the rich and influential people who “grasp” land. Here the corruption features appear very vividly.

4. Smuggling

There are very few publications on smuggling, just three or four. But the volumes of timber of which they mention are staggering indeed. Interestingly, the smuggling was revealed not by the customs, but in two cases by the departments for fighting economic crime of the Ministry of Internal Affairs, in the third instance – by the tax inspection and in yet another – by the Security Service of Ukraine. These materials also reveal the scheme of smuggling transactions. Here is a typical example: “An employee of the local limited liability company illegally obtained bills of lading confirming the legal nature of timber purchase and based on these documents received the certificate for customs clearance in the Kherson Oblast Forestry and Hunting Department for the export of wood. The violator provided the certificate to the customs office”. It is of interest that in none of these cases the forest company staff members issuing the certificates suspected anything, though in each of the cases the volumes were very large.
5. Participation of the forestry staff members in illegal transactions

If the paper mentions large amounts of stolen timber, it often states that the theft could not occur without the participation of the forest companies staff members. There are examples where these staff members were the initiators and organizers of illegal cuttings, documents forgery, etc. There are also three or four notes informing about the initiation of criminal proceedings against the forestry staff members who did not take appropriate measures to protect the forest. Unfortunately, it is not clear from these articles what exactly they should have done. That is why these cases are very difficult to assess – either it was deliberate assistance in cutting, or simply incompetence, or the forestry staff members were made sacrificial goats and got punished simply because the system is unable to prevent illegal cuttings and it was necessary to find who was to blame.

6. Exposure of the forestry staff members

Several articles refer to the insufficient security of forest guards with one of them being entirely devoted to this topic, providing examples of forest guards beaten by poachers.

However, two publications cover the exposure of those forestry staff members who try to protect the forest from the “timber mafia”, i.e. from the theft of timber under the “backing”. Such forestry staff members are in this or that way hired from their positions, etc.

7. The forest and local residents

There are just a few examples of how local residents protect their (closest to their settlement or owned by them) forests, realizing that massive cuttings would worsen their living conditions and / or that forests are their property and they have some benefits from it (which happens even more rarely). The most interesting article on this topic was published in the “Vysokyi zamok” Lviv newspaper and it describes the successful experience of work of the district council which at the request of local residents banned the cuttings in the district at all. After that the timber producers started contacting people and providing them with the information on what, where and when they would cut and agreed to take into consideration the people’s wishes as to the places and volumes of cuttings. (My personal study of the situation during the business trip revealed that the journalist somewhat idealized this story, – O.L.). Another positive example is the struggle of local residents against illegal sand quarries in the nearby forest in the Kharkiv oblast. The quarries threatened to drop the underground water level, etc. A non-governmental organization helped the people and taught them the ways of fighting for their rights.

In general it seems that only the active position of local residents can significantly influence the situation. On the other hand, without the support “from the center” it is difficult for them to assert their rights.

Analytical articles should also be noted (some have already been mentioned above), particularly those written after the addresses of local residents and NGOs. A total of 20 reviewed materials may be referred to as serious analytical articles or journalist investigations. Usually, they are newspaper or magazine publications posted on their sites. Typically, these are copyrighted materials and these articles often have wide geography, sometimes they are even prepared by several authors from various regions. They often contain comments by professionals. These materials are the most interesting as a source of recommendations on overcoming the situation existing in the forest sector and contain interesting summaries and conclusions (although quite often they are rather disputable).
What is missing in the collection

Unfortunately, with the only exception of Natalia Shevchenko’s article on the website of NGO “Green Future”, there are no publications on forest use and forest management policy analysis as such, the effectiveness of the forest law, etc. There are no articles on the situation with illegal cuttings, smuggling, “theft” of forest land in the country in general (let alone the one depicting trends, comparisons with the USSR or current neighbor countries). There are no materials on the results and efficiency of our judicial system.

Geography of publications

Most of the considered materials in the media concern the Lviv oblast (25), but, given that lots of information was repeated by different media practically unchanged, this region provided coverage opportunities for 20 publications.

By the number of publications and coverage opportunities other regions could be listed as follows:

<table>
<thead>
<tr>
<th>Oblast</th>
<th>Publications</th>
<th>Coverage Opportunities</th>
</tr>
</thead>
<tbody>
<tr>
<td>Oblast of Zakarpattia</td>
<td>18</td>
<td>16</td>
</tr>
<tr>
<td>Oblast of Ivano-Frankivsk</td>
<td>18</td>
<td>11</td>
</tr>
<tr>
<td>Oblast of Volyn</td>
<td>8</td>
<td>8</td>
</tr>
<tr>
<td>Oblast of Zhytomir</td>
<td>8</td>
<td>6</td>
</tr>
<tr>
<td>Oblast of Rivne</td>
<td>7</td>
<td>7</td>
</tr>
<tr>
<td>Oblast of Kharkiv</td>
<td>7</td>
<td>6</td>
</tr>
<tr>
<td>Oblast of Chernivtsi</td>
<td>6</td>
<td>5</td>
</tr>
<tr>
<td>Oblast of Vinnytsia</td>
<td>4</td>
<td>4</td>
</tr>
<tr>
<td>Oblast of Sumy</td>
<td>4</td>
<td>4</td>
</tr>
<tr>
<td>Oblast of Kherson</td>
<td>4</td>
<td>4</td>
</tr>
<tr>
<td>Oblast of Ternopil</td>
<td>3</td>
<td>3</td>
</tr>
<tr>
<td>Oblast of Kyiv</td>
<td>3</td>
<td>3</td>
</tr>
<tr>
<td>Oblast of Chernigiv</td>
<td>3</td>
<td>3</td>
</tr>
</tbody>
</table>

There was one publication in the oblasts of Khmelnytskyi, Lugansk, Cherkasy, Kyrovograd, Donetsk and the AR of Crimea.

It is logical that the leaders are the most wooded Carpathian regions, though the question is why are there twice less posts on the situation in the Carpathian Chernivtsi oblast and in the Polissia oblasts of Zhitomyr, Volyn, Rivne and Kyiv? And even fewer - in the oblasts of Sumy and Chernigiv?

Active Media

Most often illegal cuttings and disorders in the forests were covered by the following media:
<table>
<thead>
<tr>
<th>Media</th>
<th>Coverage (times)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Zakarpattia online</td>
<td>11</td>
</tr>
<tr>
<td>ZAXID.NET</td>
<td>11</td>
</tr>
<tr>
<td>Western Information Corporation (WIC)</td>
<td>9</td>
</tr>
<tr>
<td>Zhytomir Info</td>
<td>5</td>
</tr>
<tr>
<td>TV and radio company “Vezha”</td>
<td>5</td>
</tr>
<tr>
<td>“Objektyvno”</td>
<td>4</td>
</tr>
<tr>
<td>Web-site of the Ministry of Environmental Protection</td>
<td>4</td>
</tr>
<tr>
<td>ua-reporter</td>
<td>4</td>
</tr>
<tr>
<td>Web-site of the Ministry of Internal Affairs</td>
<td>3</td>
</tr>
<tr>
<td>“Vysokyi zamok” newspaper</td>
<td>3</td>
</tr>
<tr>
<td>Mobus.com</td>
<td>3</td>
</tr>
<tr>
<td>GalInfo</td>
<td>3</td>
</tr>
</tbody>
</table>

On other web-sites most often one publication could be seen. In total materials from 57 sites were included in the list of reviewed publications (attached herewith).

So, the regional news agencies were the most active. At the same time, it should be noted that although newspapers very rarely refer to the forest topic, they usually give meaningful analytical publications.

The most frequent reasons for the coverage of the “timber” law-abidance and quality maintenance subject by the media are press-releases by one of the various controlling agencies. Here is the table of references to the press services and statements, addresses, etc., of the representatives of different institutions (without any breakdown by oblast departments and central agencies):

<table>
<thead>
<tr>
<th>Institution</th>
<th>Coverage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ministry of Internal Affairs</td>
<td>25</td>
</tr>
<tr>
<td>State Environmental Inspectorate and Ministry of Environmental Protection</td>
<td>22</td>
</tr>
<tr>
<td>Prosecutor’s office</td>
<td>17</td>
</tr>
<tr>
<td>State Forestry Committee</td>
<td>9</td>
</tr>
<tr>
<td>KRU</td>
<td>5</td>
</tr>
<tr>
<td>Tax inspection and tax police</td>
<td>4</td>
</tr>
<tr>
<td>The Security Service of Ukraine</td>
<td>2</td>
</tr>
<tr>
<td>Accounting Chamber</td>
<td>1</td>
</tr>
<tr>
<td>Customs Service</td>
<td>1</td>
</tr>
</tbody>
</table>
In five cases the coverage opportunities were provided by the Oblast State Administrations which organized subject-related meetings. Such meetings were held in the oblasts of Lviv (there were three publications based on the materials of this meeting), Kharkiv and Donetsk. Most of the articles represent rather interesting analytical materials containing suggestions on the improvement of the situation.

In another five cases the coverage opportunities for the publication were the addresses of local residents, including letters. Sometimes they were the reason for a serious analytical article or a journalist investigation.

Four times the publication were provoked or prepared by NGOs themselves and these materials also give a lot of information for thinking-over.

Finally, the reasons for writing about ten of the materials were the events that fell directly in the field of view of journalists or their friends.
Abstract to the book

“Administrative Responsibilities for Forest Law Violations: Enforcement Practices of the State Forest Guard of Ukraine”. Oleg Storchous, World Bank consultant

This book by Oleg Storchous, World Bank consultant, has been prepared for publication by a World Bank team in cooperation with the State Forestry Committee of Ukraine under the FLEG Project

This publication is necessitated by the fact that the current administrative and forest law of Ukraine empowered a considerable number of forest sector officials and state-run forest companies to consider cases on administrative offenses. Furthermore, the Forest Code of Ukraine legally secured the status of the law enforcement agency with the State Forest Guard of Ukraine as a special unit within the central executive authority in the field of forestry and granted significant administrative powers thereto. At the same time, one has to admit that the status of enforcement of the law on administrative responsibility in the area of forest guarding and protection doesn’t meet the appropriate level. This is reasoned by a number of subjective and objective factors, including weak guidelines of the administrative practices carried out by the State Forest Guard, almost complete absence of specialized publications and monographs in this area and a relatively low level of legal knowledge of the majority of authorized officers in the forest sector.

In view of these circumstances, in order to enhance the level of legal culture and legal knowledge of the State Forest Guard officials and strengthen the fight against crimes in the forest sector, the publication will incorporate guidelines on the use of administrative legislation and related legal relations. Specifically, the book is expected to contain the following:

■ Guidelines on the execution of records on administrative offences by the State Forest Guard and writs on elimination of forest law violations. These guidelines will cover in detail the order of proceedings in cases of administrative offenses, clarify the procedure for the collection and execution of evidence of guilt of the forest law violators, imposing administrative penalties, announcement of writs and outline the appropriate procedure for accounting for records of administrative cases.

■ A practical commentary on fourteen articles of the Code of Ukraine on Administrative Offenses which consideration under Article 241 of the Code of Ukraine on Administrative Offenses is vested with the forest sector authorities of Ukraine. The commentary provides the practical interpretation of legally significant notions in the forest sector, analyzes corpus delicti of administrative offenses in the forest sector and identifies the basic options of actions of the State Forest Guard when making the forest law violators administratively liable. In addition, the commentary highlights the problems of the practical enforcement of the effective administrative legislation and provides possible solutions thereto.

■ A reminder for the State Forest Guard officers on how to behave with the forest law violators while documenting the violations (legal, tactical and psychological aspects and tips). In this section the primary emphasis is placed on the effective exercise of the existing powers of the State Forest Guard; it analyzes typical situations arising from revealing and documenting illegal cuttings, advises on the practical exercising of the powers of the State Forest Guard and comprehensively reviews legal and psychological aspects of typical actions in course of documenting the violations. Given the specifics of the State Forest
Guard, the author details the issue of the necessary defense and the use of measures of physical coercion, special means and weapons by the State Forest Guard officers and examines the legal aspects of the State Forest Guard officers’ actions in extreme situations.

- The summary of violations, shortcomings and mistakes that are committed by the officials of the State Forest Guard bodies in considering administrative cases. The section contains the analysis of typical violations that are committed by the authorized persons while drawing up protocols on administrative violations and adopting resolutions on the imposition of administrative penalties.

- The table of basic procedural terms specified in the Code of Ukraine on Administrative Offenses. This section is included in the book for the purpose of consolidation of the basic knowledge of the State Forest Guard officers in the area of procedural enforcement of the administrative law and is of an informative and explanatory nature.

Furthermore, the book is to include the profile Order of the State Forestry Committee of Ukraine which regulates the issues of execution and consideration of materials on administrative violations by the State Forest Guard officers (its approval is currently expected) and the Resolution of the Cabinet of Ministers of Ukraine “On the Approval of the Tariffs for the Calculation of the Amount of Damage Caused to the Forest” no. 665 dated July 23, 2008.

Thus, the publication is expected to fully and comprehensively cover the issues of the practical enforcement of the law on administrative violations in the area of guarding, protection and renewal of forests. At the same time, thanks to this set of mutually complementary and comprehensive recommendations the State Forest Guard officers will much easier apprehend the presented legal knowledge.

The language of the publication is Ukrainian. The recommendations are designed primarily for the State Forest Guard officers and the officers of the forest guard services of other state forest users, as well as for the inspectors from the State Environmental Inspectorate, the law enforcement officers and a wide range of persons interested in the problems in the practical enforcement of administrative responsibility in the forest sector, i.e. journalists, activists from non-governmental organizations, representatives of local self-governing bodies, etc.