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**GENEVA TIMBER AND FOREST DISCUSSION PAPER 37**

**FOREST LEGISLATION IN EUROPE:**

**HOW 23 COUNTRIES APPROACH THE OBLIGATION TO  
REFOREST, PUBLIC ACCESS AND USE OF NON-WOOD  
FOREST PRODUCTS**

*by*

*Josephine Bauer, Matleena Kniivilä, Franz Schmithüsen*



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United Nations Economic Commission for Europe/  
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UNECE



Timber Branch, Geneva, Switzerland

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#### HOW 23 COUNTRIES APPROACH THE OBLIGATION TO REFOREST, PUBLIC ACCESS AND USE OF NON-WOOD FOREST PRODUCTS

*A study implemented in the framework of the European Forest Sector Outlook Study (EFSOS)*

*by*

*Josephine Bauer, Matleena Kniivilä, Franz Schmithüsen*



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## **Note**

The designations employed and the presentation of material in this publication do not imply the expression of any opinion whatsoever on the part of the secretariat of the United Nations concerning the legal status of any country, territory, city or area, or of its authorities, or concerning the delimitation of its frontiers or boundaries.

## **Abstract**

This report presents the results of an extra budgetary project which analyses similarities and common approaches in European national forest legislation. The forest laws of 23 countries have been examined in order to find out whether provisions are made to put into practice the following three legal issues: (1) reforestation obligations after logging through final cutting or loss of forest cover due to fire and natural calamities, (2) regulations concerning public access to forests and (3) public use of non-wood forest products occurring on forest land. All three legal issues are addressed by the analysed national legislation. In most countries legislation includes regulations for obligatory reforestation. Public access to forests is allowed in most of the analysed countries, although, forest owners have specific rights to limit such access. Limitations exist mainly with regard to nature protection in order to protect replanted or naturally regenerated forest stands. In most of the examined countries the public has usage rights to collect some non-wood forest products: Considerable variations between countries are to be found; the practise of such rights usually requires consent or authorisation from the forest owner; and many rights may be subject to regulation and specific restrictions.

Key Words: Forest Law, Reforestation, Access Rights to Forests, Non-wood Forest Products, Europe

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## Preface

Forest resources provide a broad variety of environmental and social benefits to society and contribute significantly to overall sustainable development in Europe. The protection of forests and ensuring these benefits over the long-term is thus an essential subject of policy concern in the region.

The importance of forests is reflected in national forest legislation, and more concretely in national forest programmes, which have been developed and implemented in European countries over the last few years. In recent years, changes taking place in Central and Eastern European countries have required revision of the political and legislative frameworks of the forest sector. Essential rules for the interaction between forests and society have been set up, taking into account experiences from the past as well as from western European countries.

The current study provides a synopsis of present day forestry legislation; on this basis similarities and common approaches in European national forest legislation were analysed. Three essential rules were explored: obligation to reforest, public access to forests and public use of non-wood forest products. The study shows that all three issues are addressed by most of the analysed national legislation, while the specific implementation and execution of these legislative rules differs to some extent from country to country.

The conclusion drawn is that common rules already exist in national forest related legislation in many European countries. The outcome of the study can be used as a basis for further comparison of national forest policies and legislation in practice, and their common features, demonstrating their contribution to the sustainable development of the region.



Brigita Schmögnerová

Executive Secretary

UN Economic Commission for Europe



# 1. OBJECTIVES, CONTEXT AND APPROACH

## 1.1 Objectives of the Study

Forest legislation developments in Europe are dynamic and innovative. In practically all European countries, new forest laws have been enacted or existing laws substantially amended in recent years. Due to the remarkable changes in society, progress in forest law development is most evident in Eastern and Central European countries where the need for new forest laws has been induced by reforms of the political system and changes in land tenure. In Western Europe important trends in new forest legislation result from a greater appreciation of multiple uses and social needs in forest management, moves towards close to nature forestry practices, sustainable development as the overarching principle in the forestry sector, and more emphasis on participatory processes in forest planning at national and local levels. International agreements have a significant impact on the adoption of new forest laws that recognize the need for a more integrative approach in forest ecosystem and landscape management.

There are wide differences in the form and content of national forest legislation in European countries: basic legal framework and doctrine, degree of detail, enforcement mechanisms, roles of owners, state forest services etc. Sometimes there is a single comprehensive forest law; sometimes forest issues are dealt with in a range of other laws, sometimes in administrative documents, sometimes at the sub-national, and sometimes at the national level. The question is whether this diversity of legislation is an indicator of fundamental differences in approach to forest management issues, or whether it presents merely an expression of national legal and cultural habits, concealing a deep unity of purpose and common approach to basic problems.

Considering common trends and challenges to European forestry, but also the diversity and specificities of national forest legislation the EFSOS study on common forest law issues in European countries has three objectives:

- 1) To contribute to a synopsis of presently applicable regulations and rules in national legislations for selected issues.
- 2) To collect information on national legislations and update the available databases.
- 3) To provide a basis for a better knowledge of forest law issues of common interest from a European point of view.

Forthcoming results are expected to facilitate a more substantiated policy dialogue, to promote information to the public and to accelerate recognition of forest benefits to society.

The present report provides information on the forest sector policy context in which new forest legislation develops. Based on a review of a considerable number of national forest laws and followed by an expert inquiry, the main part of the document presents findings on specific forest issues as regulated in European countries. The following three areas have been selected for a more detailed analysis:

- Obligation to reforest.
- Public access to forests.
- Use rights of non-wood forest products.

The analysis of relevant regulations and the expert inquiry are based on a “bottom-up” approach. They examines the content of existing forest laws in a form of a synopsis in order to ascertain whether or not, respectively how, these issues are dealt with in the forest law of the country. The synopsis complements the ongoing international dialogue focusing on the forest sector and its contribution to sustainable development of society.

## 1.2 Forest Sector Policy Context

The FAO European Forestry Commission, EFC, monitors developments in forest policy, legislation and institutions. At its session in 2000, the EFC surveyed recent developments based on information made available by twenty-four European countries that had submitted national reports. Most countries reported on substantive recent changes in the forest law and policy framework, notably on recent statements or modifications of broad policy objectives, national debates on forest policy goals, and initiation of processes leading to national forest programmes. All reporting countries drew attention to the necessity of sustainable forest management and of balancing economic, ecological and social functions of forests. Many stressed the importance of a holistic, cross-sector approach linking forest policy programmes to rural development and environmental conservation. The countries stressed the relevance of national measures to global and regional forestry dialogues, by stating that national policies are explicitly linked to, or based on, the results of IPF/IFF or MCPFE. Member countries of the European Union and candidate countries to accession frequently referred to major EU documents. They reported that they are bringing national forest policy in line with broad EU objectives as indicated in the forest strategy and in various directives and regulations. Most reporting countries had either recently completed a fully revised statement of national forest sector policy or were in the process of preparing such statements. The European Forestry Commission took note of the considerable differences between countries in formulating policy objectives, even if the policy content appeared to be broadly the same.

A source of reference material for comparative forest policy and law analysis is the work of the IUFRO research group on forest law and environmental legislation (IUFRO 2002). A special volume of the IUFRO World Series offers a useful overview on the dynamic and multifaceted evolution of the regulatory framework for sustainable forest management that exists at present in Europe (Schmithüsen et al. 2000). It contains country case studies on recent changes in forest laws for 25 European countries. Current trends in Western European countries are discussed in a more detailed analysis on changes of forestry legislation in the region between 1990 and 1998 (Cirelli and Schmithüsen 2000). Management and use of forests, forest lands and their products are subject to developments in public policies and laws that are largely determined by macro-economic trends.

A complex network of regulations addresses directly or indirectly forest conservation and sustainable forest resources utilisation in areas such as environmental protection, nature and landscape conservation, water protection, fishery and wildlife conservation. Significant trends in country specific forestry legislation include sustainable forest management, forest management planning, stakeholder involvement, advice and support to private forestry, government financial support to forestry, harmonisation with forestry related policies and legislation, and protection against forest fires. In Western Europe, the European Community has adopted a considerable amount of legislation regarding forests. Such policies and regulations refer, for instance, to funding for afforestation, protection of forests, harmonisation of procedures for data collection and related activities. Such measures are to a large extent part of the framework of the Common Agriculture Policy (CAP) but also of environmental policy measures of the Community.

Forestry legislation trends in Central and Eastern Europe are analysed in a FAO survey published in 1999 and updated in 2002 (Cirelli 1999; FAO 2002c). Many countries such as Albania, Bulgaria, Croatia, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, Russia, Slovakia, Slovenia and Ukraine have adopted new forest legislation since the political changes of the early 1990s. The reasons for this rapid replacement of laws and the constraints that such reforms have encountered are discussed. In most cases the development of new forest laws has been induced by constitutional changes in the transition process to market economies and has led to important land tenure reforms and privatisation in the forest sector. A considerable number of case studies on forest law developments in Central and Eastern Europe is available from the IUFRO research group on forest law and environmental legislation which has organized a series of international symposia with participants from countries in transition to market economies (Le Master et al 2003; Schmithüsen et al 2002). The case studies show that the countries in Central and Eastern Europe increasingly participate in international initiatives and activities regarding forestry. Although the formulation or improvement of a legal framework for private forests remains a complex task, new solutions have been introduced in several countries. Further, public participation and integrated management for the adoption of forest management planning decisions play an increasingly important role.

An analysis of instruments and tools that are currently used in forest legislation shows that there is a great deal of commonality among forest and environmental policies adopted in the 1990s in Eastern European countries (Le Master and Owubah 2000). By assessing the relationship between forest tenures, sustainable forest management and the nation state the authors show that opportunities exist for the application of a variety of forest policy tools, including particularly forest tenures. The relationships between forest tenure structure, forest landowner conduct and tenure performance in terms of forest stewardship are summarised indicating that many options are available to nation states with regard to forest tenures. Both theory and experience indicate that forest tenure directly affects the conduct of forest landowners, which in turn affects sustainable forest management. The study concludes that the issues facing Eastern European countries are less the role of public and private ownership, but rather whether the forest tenures are able to promote sustainable forest management.

National forest policies and laws refer explicitly to international commitments made by the governments, notably at United Nations Conference for Environment and Development, UNCED, in Rio in 1992. International processes such as Ministerial Conference for the Protection of Forests in Europe, MCPFE, and the Intergovernmental Panel on Forests (IPF), the Intergovernmental Forum on Forests (IFF) and the United Nations Forum on Forests (UNFF) have developed a strong international consensus on the main elements of sustainable forest management. At the same time they recognise the pre-eminent role of national sovereignty in forest matters. Efforts in international cooperation on sustainable forest management are to a large extent “top down” starting with basic principles like sustainable forest management and subsequently translating them into more detailed approaches and measures. On the other hand it is obvious that many legal principles and basic rules are already in force in most European regions and countries.

Forestry related international legal instruments, adopted prior to, during and after the United Nations Conference on Environment and Development, UNCED, in Rio 1992, have led to a substantial expansion of international law that influences increasingly national policy and law development (Tarasofsky 1999; FAO 2002b). The commitments, which result from international forest-related instruments, have to be seen within the context of continental and regional, national and local policy networks. Major forest and forestry related issues thus extend from local to global levels. The multiple impacts on land owners and the consequences for land management and public decisions making, which are addressed by the different policy, and legal network have to be assessed in relation to user specific need and to the resources potentials of the prevailing ecosystems.

The expanding multilevel public policy and legislative framework has strong impacts on the principal objectives and measures governing conservation and sustainable utilisation of forests, protection of ecosystems and landscape, and land use and utilisation regulations (Schmithüsen 2000). The variety of conditions under which the process of adapting the policy and legal framework occurs is illustrated by giving examples of new forest legislation in ten European countries. Significant aspects of change include the adaptation of legislation to changing social demands, multifunctional policy objectives, transfer or delegation of constitutional competencies in forestry matters. Other innovative aspects are the use of new regulative and incentive instruments, increasing emphasis on information and process-steering processes, new strategies to support forest owners, a strong promotion of forestry practices close to nature, a proactive approach in identifying issues of political concern, and new approaches in implementation. Important linkages exist between forestry, economic development and environmental policies and legislation. Other impacts on sustainable forest resource utilisation that are to be considered result from land use and land management policies such as agriculture, landscape and nature protection, and water resources conservation policies.

Several contributions analyse legal aspects of national forest programmes (Zimmermann and Schmithüsen 2002). Chaytor (2002) discusses the relation between national forest programmes and international and European legal and institutional frameworks. The Pan-European process of the Ministerial Conferences on the Protection of Forests (MCPFE) contributes to translate the general international policy advice into the European context, giving more specific guidance to countries in elaborating national forest programmes. Policy advice has been further refined and detailed within the frameworks of EU sector laws and strategies. The EU Forestry Strategy means in fact that there is a basis for co-ordinated action and decision making on forest-related activities within the Commission. The

strategy emphasises the need to implement international commitments, principles and recommendations and recommends the implementation of the MCPFE resolutions. Yet, both the UNCED Forest Principles and the EU Forest Strategy, recognise the principle of subsidiarity and underline that the responsibility for forestry policy lies with countries themselves.

In summary, trends and developments of forest and forest related legislation as discussed in the cited publications and reports, reflect important shifts in the demand of society towards forestry land uses. All of the authors underline, in particular, the links to other policy areas such as energy and economic development as well as to environmental legislation, and the importance of forestry related international instruments highlighting cross-sectoral influences on forestry issues. The papers compare various European forest laws and show differences as well as significant similarities in the national legal framework for forestry land use in Europe. It is now necessary to examine the existing national forest legislation of European countries in order to ascertain whether or not the same fundamental measures are implemented in different countries in the region. Another key issue is to determine to what extent the prevailing public framework of laws and public policies contributes to the European and international forest dialogue and to a more effective implementation of the principles of sustainable development.

### 1.3 Review of Forest Laws and Expert Inquiry

The 23 countries the forest law of which have been reviewed are: Finland, Norway, Sweden (Nordic countries), Austria, Germany, France, Liechtenstein, Switzerland and the United Kingdom (Central and Western Europe), Bosnia and Herzegovina, Bulgaria, Croatia, Czech Republic, Estonia, Hungary, Lithuania, Poland, Romania, Russia, Slovak Republic and Slovenia (Eastern Europe) and Cyprus and Turkey (Southern Europe). The countries have been selected on the basis of the importance of the forest sector, but also considering the availability of data and information.

The analysis was carried out using as reference material the forest acts of the selected countries. The main source for legislation documents was the database created and maintained by FAO (FAOLEX, [www.fao.org/forestry/fo/country/nav\\_world.jsp](http://www.fao.org/forestry/fo/country/nav_world.jsp)). The database of the European Forest Institute (EFI), which includes forest legislation of several European countries, has also been used ([www.efi.fi/efidas](http://www.efi.fi/efidas)). The chosen approach has limitations in as much as forest laws are not necessarily the only relevant texts that deal with the three selected subject matter issues. Environmental laws, in particular nature and landscape legislation, and laws concerning land use and land ownership rights may also be relevant. Moreover one would have to consult for a detailed analysis the subsidiary regulations to the forest law as well as administrative rules and orders. However, in view of the large number of countries that have been considered and the limited resource available it was considered that focussing on the laws would at this stage provide a useful and informative overview and offer a basis for future more detailed work if needed. The collected forest law texts will provide a useful database format to the public.

Following the first analysis of the available forest laws in a draft report an inquiry to national correspondents of the EFSOS panel was conducted. The objectives of the inquiry were:

- To collect complementary information and material
- To receive comments from specialists on the consistency of the information provided in the draft report
- To have an appreciation of the relevance of the three selected legal
- To ask for proposals for additional issues that from the point of view of the countries would need a similar analysis.

The questionnaire of the inquiry was drafted by the secretariat with the assistance of policy analysts (Franz Schmithüsen, ETH, Zurich; Olli Saastamoinen, University of Joensuu, Finland). The finalized questionnaire including a covering letter were sent in November 2002 to forestry policy experts in all European countries (Annex). The addressees were requested to comment the draft working paper and were also asked to send a copy of their forestry as well as forestry-related laws and regulations. Respondents were further encouraged to supply proposals for additional legal issues to be analysed later on.

21 replies out of 65 questionnaires sent out to 38 countries were received. Most replies came from Nordic and Western European countries of the EU/EFTA region, followed by Central and Eastern European countries. Turkey was the only Southern European country that responded to the inquiry. The two included CIS countries addressed, Moldova and Russia, did not reply. Reasons for not replying could have been structural and staff changes, resource constraints or lack of interest in the topic.

The inquiry, carried out in the framework of this study, provides valuable comments, mainly in terms of usefulness of the proposed country synopsis on interactions between forestry and society. The respondents consider the three legal issues that were analysed as significant and of interest in a European perspective. They generally agree that the analysis is sufficiently detailed and focused enough in order to give a realistic picture of differences and communalities of the regulated subjects. The Forest acts that were received from countries were analysed and the findings incorporated into the synopsis. Country specific comments of the respondents were taken into account during the revision of the document, in particular if they provided clarifying information in cases where the forest act makes no explicit reference to the legal issue in question.

Respondents from Germany and Switzerland commented that an analysis of this kind should comprise both national and, if it exists, sub-national forest law. Since sub national legislation, as in the case of these countries the forest law of the Länder or Cantons, may provide an important body of complementary and more detailed regulations, the argument is that it is essential to consider the different legal systems of European countries. In Germany, for instance, regulations on public use of non-wood forest products are not laid down in the federal legislation but on a subordinate level. This argument is of great importance and it is obvious that future work will need a combined approach in countries with federal political systems. With regard to the present study it was, however, decided to stay for the moment at the level of national forest law and to mention the issue in the relevant country context.

On the whole the goal and approach of the synopsis as was presented in the draft working document is regarded by the respondents as useful for further international dialogue. Some respondents argue, for example, that the synopsis is helpful for finding solutions in the future to stimulate afforestation and reforestation of public and especially private forests. With regard to general principles of forestry law, the study would arguably be a valuable basis, at least in the European context. The synopsis is, in the opinion of some respondents, useful to see trends in European forest policy and law and provides an interesting source for policy information.

Several legal issues of common interest in a European perspective have been proposed by the respondents. The proposals may be divided into the following three groups:

1. Sustainable forest management: Suggestions were to analyse legally binding measures for the implementation of sustainable forest management at a national and international level. Further, to comprise all three pillars of sustainable forestry (ecology, economy, social). The survey should be built on the six criteria of the Helsinki-process and analyse some basic Pan-European indicators for sustainable forest management. It was also suggested that the collection of data for information systems in relation to monitoring of criteria and indicators of sustainable forest management should be considered in the analysis.
2. Forest management in general: Proposals for this issue were support of forest management from public sources of funds as well as incentives for forest protection, afforestation and development. Furthermore, the obligation to have a forest management plan for forest owners in various types of ownership is considered as an important legal issue. Suggestions also included the management of private forests, the issue of public and private forest roads, buildings and construction in forests, cutting limitations and supervision over the abidingness of forest law.
3. Compensation payments: Financial evaluation of the protective functions of forests in order to provide compensation for forest owners in strictly protected areas is regarded as an important legal issue. Another suggestion was to consider obligatory compensation paid by hunting organisations or by the state for damage caused by wild animals to forests and plantations of trees. Compensation payments for planning as well as payment by the administration for services that forest give to society was also proposed as an additional legal issue.

In addition, it was suggested to take account of legal definitions and a long list of terms and subjects has been proposed. It refers to forest management including forest area, to forest resources and ecosystem integrity, to forest fires and natural calamities; to public participation in forest activities in particular legal rights of stakeholders other than the state, to the role of civil society and transparency in forestry activities, to the restrictions of property rights of forest owners and to splitting up of forest properties, to methodology for the calculation of damage caused to forest stands by air pollution, and to the responsibility of subjects which emit air-polluting substances. Altogether, a quite broad range of issues was raised by the addressees, which will need to be thoroughly evaluated according to two considerations. One is whether the proposal is expected to be common in forestry legislations of European countries, and another whether the suggested legal issue can be seen in the context of sustainable forest management.

## 2. RESULTS

### 2.1 Obligations to Reforest

The obligation to take care of reforestation after final cuttings, forest fires, diseases or storm damages is a traditional goal of European societies and an important issue in the relationship between forest owners and society. Having in mind the experience of radical over-cutting in history, modern society is concerned about the disappearance of forests and uncontrolled change of forest land to agriculture, urbanization and industrialisation uses that may have negative consequences with regard to forest benefits like recreation, water protection and, more recently, carbon sequestration. Obligatory reforestation is thus expected to be an important issue in forest legislation of European countries.

#### 2.1.1 Synopsis by countries

**Austria:** According to the Austrian Forest Act (1975), *'the forest owner shall re-afforest clear felled areas and sparse stands in the protection forest in good time with locally suitable propagated material of forest woody plants'* (Section III, Article 13). Reforestation shall be deemed timely if the measures necessary (seed or planting) have been properly carried out by the end of the fifth calendar year following the materialisation of clear felled areas or sparse stand. Reforestation by means of natural regeneration by seed, stool shoot or root sucker shall take place within a period of ten years on areas which gives rise to the expectation that these will then be fully stocked. Should natural regeneration at high altitude clearly bring advantages compared to planting or seeding, the authority may extend the period by a maximum of five years, provided that there are no doubts about the extension.

The authority shall extend the periods by a maximum of two years if it is proven that the forest owner has temporarily encountered an emergency situation through illness or a critical situation in his agricultural or forestry enterprise. Should a large-scale damage situation arise, such as large-scale wind throw, the reforestation period for the area affected shall begin when damaged timber has been salvaged. The authority may extend this period by a maximum of five years. If necessary regeneration (rejuvenation achieved by planting, seeding or natural regeneration) shall be improved, until the young stands have been ensured. Rehabilitation measures, which are necessary to safeguard protected forest, may in particular include reforestation of areas, which are insufficiently stocked and impaired in their protective functions.

**Bosnia and Herzegovina:** *Any clearings and fire affected areas must be reforested within a period of two years after felling or forest fire, using natural regeneration and reforestation* (Law on Forests, Article 32). If no natural regeneration is to be expected in the period of two years as in line with the silvicultural requirements, reforestation has to be undertaken by planting or seeding, using healthy seedlings or seeds adapted to the respective site. Only reproduction material of certified origin may be used for forestry purposes. Areas planned for replanting and natural regeneration must be marked in the forest and on forest maps. Afforestation of Karst, bare mountains, and other forest lands shall be carried out according to an approved plan specifying contains issues such as the area size to be planted, agreement of the land owners and choice of tree species (Article 43). Planting of agricultural land may only be made upon request of the landowner, accompanied by an afforestation plan.

**Bulgaria:** As a general rule the share of forested land in the national territory shall not be allowed to drop under 30% (Forestry Act of the Republic of Bulgaria, 1997). As of the date of entry into force of the Act, the share of forest lands in municipal territories shall not be allowed to decrease. Replanting or natural regeneration of the forest stock is carried out following the provisions of organisational projects, technical projects for soil conservation, special programs and plans as well as following guidelines approved by the National Forestry Directorate. *Felling areas and sites of fires, which were not generated naturally shall be replanted by the forest owner within a year after felling or burning of the tree stock* (Chapter 3, Article 43). In case of developments beyond the owner's control, this time limit may be extended by the head of the respective regional forestry directorate up to two years.

According to Article 44, Chapter 3, *owners or users of forests, who through actions or lack thereof have caused damage to the forests and soil erosion, must re-cultivate and afforest them*. The expenses for cultivation and reforestation are to be carried by the owner or user of the area. Forests, which suffered

damage from natural disasters and/or major industrial impacts, will be rehabilitated using resources from the Natural Disasters Fund.

**Croatia:** According to the Croatian Law on Forests (1990) and its amendments in 1991 and 1993 simple and expanded biological reproduction is a particular part of forest management. Simple biological reproduction' includes reforestation following clear felling, newly burnt grounds or rehabilitation of degraded stands, and the preparation of establishment for natural regeneration of stands. Expanded biological reproduction' includes measures like reconstructing and conversion of certain types of forests, afforestation of barren land, care for newly raised stands and cultures and revitalization of deteriorated forests. *'Legal entities administering forests and forest owners shall reforest burnt wood grounds, grounds of unsuccessful rejuvenation and grounds on which devastation, illicit clear felling and illicit felling of rare types of forest trees have taken place within a period of time fixed by county offices and the City office of Zagreb (...)'* (Chapter II, Article 11). If the forest owner or legal entity fails to take the required measures they will be carried out at the their respective expense.

Chapter II, Article 17, defines that *'the interest of the republic of Croatia in the management of forests shall be asserted through implementation of measures ensuring, (...), permanent maintenance and renewal of forests and the conditions required for simple and expanded reproduction of forests (...)'*. Forest Enterprise, founded for the administration of state-owned forests, *'shall care for simple and expanded biological reproduction of forests'*. Legal entities and forest owners must ensure biological reproduction of forests as written in the law. For protective and special-purpose forests the regeneration methods are described in management plans and programmes.

**Cyprus:** Forest legislation in Cyprus does not include any order on reforestation. Comments by national correspondents indicate that there is no need to include any order on reforestation. In state forests, a selection silvicultural system is practiced which encourages natural regeneration. Even after fires authorities wait for some years giving a chance to natural regeneration before proceeding with artificial regeneration. In brief, artificial regeneration is used when natural regeneration fails. As far as private forests are concerned, it is noted that there is not any active forest management, not even by a single owner. However, the legislation sets regulations concerning felling of trees. The Forest Law (1967) requires felling licence for felling granted by the Director of the Department of Forests.

**Czech Republic:** According to Act No. 289/1995 Coll. on Forests and Amendments to some Acts (the Forest Act), Article 31 states that *'a cleared area on forest land must be reforested within two years and a forest stand on such an area must be established within seven years from its establishment. In justified cases, the relevant state forest administration body may, in the process of approving the forest management plans or preparing the forest management guidelines, or at the request of the owner of the forest, permit longer terms'*. The owner of the forest is obliged to regenerate the forest stand on each site with suitable forest tree species and to tend them in time and in a systematic manner to improve their state, increase their resistance and improve the fulfilment of forest functions. It is desirable to use natural regeneration in suitable conditions. However, natural regeneration cannot be used in stands unsuitable from the genetic point of view.

**Estonia:** According to the Forest Act of Estonia (1998) *the owner of the forest is required to ensure the conditions for regeneration of the forest and reforestation, and to manage his or her forest in a way that does not endanger the conditions for forest regeneration and reforestation* (Chapter 3, Article 24). Furthermore, the Act obligates *to reforest all clear cut areas and perished parts of forests with an area of more than 1 ha within three years after cutting or perishing*. If the forest is not regenerated within seven years the Forestry Board will regenerate it at the owner's expense. The Forest Act defines criteria determining when a clear-cut area or a part of a perished forest can be considered to be reforested. Forest cuttings are divided into clear cutting and shelter-wood cutting. The law requires to use at least partly natural regeneration by leaving seed trees on areas to be clear-felled.

**Finland:** The Finnish Forest Act (1996) defines two types of cutting regimes, which are intermediate, and regeneration felling. It sets general conditions, which have to be fulfilled before felling. The Ministry of Agriculture and Forestry is authorized to give detailed regulations on such conditions. Regeneration felling may be carried out by natural regeneration if the conditions are suitable for formation of a natural seedling stand. *After regeneration felling, a seedling stand which has economic growth potential and which*

*is not directly threatened by other vegetation shall be established within a reasonable period of time* (Forest Act 1996, Section 8). A stand has economic growth potential when the seedlings of the principal tree species have the potential to develop into economically valuable trees and when there is adequate amount of seedlings evenly distributed on the regeneration site (The Forest Decree 1996).

The Forest Act further defines, that when measures associated with the establishment of a seedling stand (clearing, treatment of topsoil, planting etc.) have been completed, an announcement must be done without delay to the forestry centre, *but in any case within five years of the start of regeneration felling or within three years of the completion of the regeneration felling*. The main rule is that a forest use declaration must be given to the forest centre concerning the intention to carry out felling and, as regards regeneration felling, about the means of regeneration to be used. When natural regeneration is used, there should be adequate amount of seedlings in within a period of 2 to 7 years after the measures associated with the establishment of stands have been completed (Forest Decree, 1996). In addition to the establishment of a seedling stand, provisions shall be made, if necessary, for the repair of artificial regeneration or natural regeneration and grass etc. control necessary for the development of the seedling stand (Forest Act, Section 8). The Ministry of Agriculture and Forestry is authorized to give more detailed regulations e.g. of the grounds on which the seedling stand is estimated. Details are given also by decree. Generally, the Forest Act does not prevent forestry land from being adopted for other purposes (Section 3).

**France:** On the whole, the Forest Code (1979) and Law on Forestry Orientation (2001) oblige all owners of a forest bigger than 25 ha (optionally from 10-25 ha) to present a management plan, which foresees a system for cutting and plantings. The plan has to be accepted by Regional Centre of Forest Ownership. If the owner does not have a plan accepted by the Centre and if he is operating in a forest area of more that 25 ha, cutting is subject to an administrative authorisation. Likewise, clearing is subject of an administrative authorisation. Forest areas of less than 0.5-4 ha (the size being subject to the decision of an official department) are exempted from administrative authorisations.

According to Law on Forestry Orientation (2001) *'all owners exercise on the forested land all rights connected to their ownership in the limits specified by the Forestry Code and connected laws, in order to contribute, by a sustainable management, to the ecological balance of the country and to the satisfaction of the needs for wood and other forestry products'*. Furthermore, *'they have to realise reforestation, planning and maintenance in accordance with a good economic management'*. The Forestry Code (1979) defines that in mountain regions, which are not subject to the public forest regime, the owners of an area of at least 4 ha have to reforest within a 5 years period after a clear cutting conifer species and when there is no possibility of a satisfactory natural regeneration in other forests.

**Germany:** The German Federal Forest Act (1975) which constitutes a framework for legislation at state level, defines state legislation has to provide for all forest owners the obligation to reforest or supplement when natural stock regeneration is incomplete in clear felled forest areas or thinned out forest stands within a reasonable period of time. If a forest is converted to other use for a specified period, the authorities have to make sure that the area is duly reforested within a reasonable period of time. More detailed time limits for regeneration are fixed in state laws.

**Hungary:** In the Act on Forests and the Protection on Forests (1996), reforestation is defined as *'the activity at reproducing the felled or dead growing stock of the forest'*. It can either be performed by natural means from seed trees, from shoots sprouting from the root or stump of the felled wood, by selected cutting ensuring establishment and continuous maintenance of a mixed-age growing stock, or artificially in the course of which at the location of the felled or dead and removed wood a new growing stock is generated by seed sowing, sapling or shoot planting. If conditions are appropriate for natural establishment from seed of indigenous tree species suiting the habitat, this kind of regeneration shall be used. In case of artificial regeneration only propagating stock of species set forth in district forest plans and of quality specified under a special regulations may be used. *If the growing stock of the forest perished contiguously for any reason on an area exceeding five thousand square meters, or if in a forest serving wood production the area covered by the tree-top projections decreased below sixty per cent, the forest manager shall begin the regeneration within two years, and shall complete it within the deadline specified by the Minister in an order*. Regeneration shall be declared completed by the forest authority if *'the trees of the species set forth*

*in the district plan are present in the appropriate number, proportion and quality, and the growing stock requires no further additions’.*

In case the forest manager does not meet her/his obligation within the limits stipulated by the act, *‘this shall qualify as a violation of the forestry regulations’*. After five years having passed from declaring the afforestation completed the forestry authority shall supervise the condition of the forest, and if necessary order the repeating of the reforestation. Supervision can be made at an earlier date or repeated later if this is justified by the protective importance of the forest. The forest authority can limit or prohibit wood-felling and cutting in case the forest manager does not meet the financial and professional obligations and conditions for reforestation.

**Liechtenstein:** The Forestry Act (1991) prohibits clear cuts and felling which has the effects of clear cuts. Un-stocked areas, which originate from interventions or natural calamities, have to be regenerated. If natural regeneration is not possible planting with trees and shrubs adapted to local site conditions has to be undertaken. Public funds may be made available for silvicultural measures in or to restore instable and destroyed forests with special protective functions. The law also requires felling licences and generally prohibits a decrease of the total forest area. *For each forest clearing replacement has to be made in the same region* (Section II, Article 7).

**Lithuania:** *Forest managers, owners, and users are obliged to reforest cut forest in time and in a proper manner* (Law on Forests, 2001, Chapter II, Article 9). Forest owners shall follow the law, the Regulations on Management and Use of Private Forests, and obligatory forest management project parts, i.e. reforestation. *Forests shall be artificially reforested in clear-cutting and burnt areas not later than within three years after their origin* (Chapter IV, Article 15). The forest shall artificially be reforested on an ecological basis. Cut down oak-woods, maple trees, lime-groves, ash-groves, and pine-woods, which used to grow in appropriate growing places shall be restored with the same tree varieties. The state officials may prohibit further final forest cuttings until the cut over forest has been regenerated. Exceptions from reforestation obligations may be made if large forest areas are destroyed due to the natural calamities. Reforestation covers forest stand reconstruction, supplementation of natural regeneration, and care and protection of young stand. Unsuccessful forest plantations shall be reforested not later than within two years.

**Norway:** The Norwegian Forest and Forest Protection Act (1965) applies to all forest and forest lands in the country. According to the act *thinning or felling for regeneration purposes has to be done so that it promotes the future production or revegetation of the forest* (Chapter III, Section 16). If timber cutting is carried out in a way which has *‘a distinct negative effect on the future harvest in the district or on the future management of the property, or that it may be assumed to cause an essential harm on the recreational use or to the natural environment’* regeneration felling may be prohibited or restricted for a specific period of time on that property. The law provides (Chapter III, Section 17) that land, which is at present not productive forest but has been covered with forest during the last 20 years, shall be attempted to be restored into productive conditions within a reasonable time. If the owner has not complied with a request from authorities after two years, authorities may decide that financial means from a trust fund is used. If the owner fails to meet the deadline for carrying out the required measure, the competent authorities may arrange the measures to be carried out.

**Poland:** The principles used in the forest economy in Poland as determined by the Act Concerning Forests (1991) are general protection of forests, sustainable maintenance of forests, continuity of their use, and enlargement of forest resources. In accordance with these principles the state forest managers and forest owners are obliged to maintain forests and to ensure the continuity of their use, *which includes obligation for regeneration of forest stands within 2 years of the removal of the stocking volume and restructuring of tree stands in the case of specified decrease in the stand density index* (Chapter 2, Section 13).

**Romania:** The Forest Code of Romania defines the national forest fund and divides it into the public property forest fund and to the private property forest fund. Regulations concerning reforestation are given separately for both funds. Title II, Chapter II, Section 2 defines regulations concerning regeneration of public property fund forest. Clear cuttings are permitted in certain types of forests, the maximum size being normally three hectares. *Completion of natural regeneration and reforestation works shall be carried out*

*within two years after the final cutting.* Owners of private property fund forests are obliged to ensure the permanence of the forest. *The regeneration of private property forests after cutting shall be achieved by the owners within two years.* If the owner fails to fulfil the obligations reforestation and maintenance up to the newly established stand shall be carried out at the owner's expense. The Code does not include direct regulations concerning reforestation of forest vegetation outside the forest fund. However, according to the Code, the central public authority responsible for forestry controls the mode in which the security and forest rules are applied on those lands. Furthermore, the state encourages the planting of degraded private land property.

**Russian Federation:** The Forest Code of the Russian Federation (1997) acknowledges only one kind of forest property which are state-owned forests (Lobovikov 2000). Article 19 states that *'the Forest Fund and forests located on defence lands are under federal state ownership'*. The Forest Fund is defined as *'all forests except for those located on defence lands and the lands of settlements, as well as lands of the Forest Fund not covered with forest vegetation (forest lands and non-forest lands), make up the Forest Fund'* (Article 7). However, in accordance with the federal law (Article 19), *'transfer of parts of the Forest Fund to the ownership of the subjects of the Russian Federation is allowed'*. According to Article 20 of the Forest Code trees on private land are considered to be the property of the landowner.

Section IV, Chapter 10, Article 79) stipulates that the use of forests (Forest Fund and forests not included in the Forest Fund) shall ensure continuous, non-exhaustive, efficient use, and appropriate conditions for forest reproduction. Article 83 defines obligations for forest users. Among other issues, forest users are obliged to *'carry out reforestation work within a time frame and under conditions specified in a lease agreement, in an agreement for free-of-charge use of a parcel of the Forest Fund, in a concession agreement (...), as well as in a felling permit, authorization, or wood permit'*. In the same article they are obliged to carry out reforestation work at their own expense on cutover areas and on areas, *'where young growth has been destroyed or shrub-type vegetation perished as a result of forest user activity'*. No time limits are defined.

Chapter 6 defines in more detail lease and concession agreements. However, it does not give details what time limits for regeneration are to be respected, according to which criteria regeneration is considered to be complete, or who is responsible for regeneration measures. In addition to lease and concession, free-of-charge use and short-term use are possible ways of forest resources use by citizens and juridical persons. The right to use forests belonging to the Forest Fund or forests not being part of the Forest Fund will be terminated if the users fail to carry out the necessary reforestation measures (Chapter 5, Article 28). Forest management units (Leskhozoes) are obliged to take ensure effective regeneration of forests and development of new forests.

**Slovak Republic:** The Act on Forests (1993) requires that users (the manager, owner or user of forest lands) *'perform a soil adjustment and re-cultivation as soon as possible after the termination of the use of the taken forest lands and in a way that the relevant forest lands can be afforested'* (Section II, Article 4). Clearings on forest land must be reforested within two years from their formation and consecutive forest stands must be secured within the following five years. In cases of a larger and long-term concentration of mineral extraction, biological re-cultivation with suitable forest stands needs to be ensured.

In case of mining, building and industrial activities, as well as of design and building of direction and line constructions as well as geological and hydrological surveys, the organisations carrying out such activities are obliged to *'bring the damaged forest lands into the original condition after the works termination, unless prescribed by the Body of the State Administration of Forest Management otherwise'* (Section II, Article 8). The users of forest lands are generally obliged to protect the lands and forest stands and to use them rationally for the fulfilment of forest functions. For this purpose the State Administration of Forest Management can oblige the users to take the necessary measures on forest lands at their own expense.

**Slovenia:** The Law on Forests (1993) provides that *a forest owner has to replace abandoned or clear felled forest. Time limits will be determined specifically in an administrative order* (Chapter III, Article 23). Clear cutting is forbidden as a form of forest management but may be permitted in special conditions as determined by law. The law does not include detailed regulations concerning natural regeneration. Article 6 of the Law on Forests determines that forest programmes and silvicultural plans shall ensure *"preservation*

and establishment of natural stands of living forest communities and forest management which (...) is based on the successful natural regeneration of stands". The Forest Service shall issue to forest owners an administrative order, which defines the necessary silviculture work for renewing forests and the time limits for carrying out such work. Article 18 prohibits all acts, which reduce stability or permanence of forests or threaten their functions or existence.

**Sweden:** The Swedish Forestry Act (1979, latest amendment 2001) provides that *new stands shall be established on forest land where, after felling or due to damage to the forests, the site productivity is not utilised satisfactorily, the land is unused or the condition of the forest is clearly unsatisfactory*. Measures shall be carried out without delay, except for the last category, within a reasonable period of time. According to the ordinance of government *measures shall be carried out within three years after the year of cutting*. Establishment of new forest stands has to be carried out by using methods guaranteeing satisfactory stand density and composition. Regulations concerning regeneration and related measures are issued by the government or public authority designated by the government.

**Switzerland:** The Swiss Federal Law on Forests (1991 with amendments) determines that *"forest must be managed in a way that ensures their ability to perform their functions in an unhampered and sustainable manner"* (Chapter 4, Section 1, Article 20). The cantons shall issue the necessary planning and management regulations. *"Clear-cutting and any other type of utilisation having similar effects are prohibited. The cantons may authorise such practices in exceptional cases in preparation for certain silvicultural procedures"* (Article 22). Reforestation of clearings, whether natural or resulting from human interference, undermining the stability or the protective function of the forest is obligatory. *"If natural regeneration is unable to do the work of reforestation, it must be done using trees and shrubs adapted to the station"* (Article 23). Forest reproduction material, which is healthy and adapted to the station, must be used. Article 3 of the law states that forested area must not be reduced and Article 5 prohibits deforestation with exceptional cases.

**Turkey:** The constitution of the Republic of Turkey (1982) has two articles concerning the use and management of forests. Article 169 determines that the state shall take the necessary measures for the protection of forests and their extension, and provides that forest areas, which are destroyed by fire, shall be reforested. The constitution forbids actions that might damage forests. Furthermore, *"offences committed with the intention of burning or destroying forests or reducing forest areas shall not be included within the scope of amnesties or pardons (...). The restraining of forest boundaries shall be prohibited (...)"*. Article 64 of the Forest Law (1956, amended by Law No. 1744, 1973; Law No. 2896, 1983; Law No. 3302, 1986, Law No. 3373, 1987; Law No. 3493, 1988) defines the establishment of a reforestation fund for supporting reforestation, afforestation and maintenance of young stands.

**United Kingdom:** Forestry in Great Britain is strictly controlled but the control is applied through enabling mechanisms and not through direct legal restrictions (Miller 2000). The most important act regulating forestry is the Forestry Act of 1967 with subsequent amendments. The act applies also to Scotland, Wales and Northern Ireland. The *Forestry Act does not include specific regulations concerning reforestation*. However, it sets rules concerning the felling of trees. It requires a felling licence, unless the felling is covered by one of the exceptions listed in the act. The licence shall be granted unconditionally except in cases where it is expedient to do otherwise, for example, in the interests of good forestry or necessary amenities of the district.

National correspondents comments underline that the Forestry Act stipulates the basic conditions that can be attached to a felling licence. These are, firstly, that *the area felled (or a different but equivalent area) must be restocked* and, secondly, that the trees planted must be maintained for a period of at least ten years. If the felling is being carried out within a plan of Operations for a Forestry Dedication Covenant or Agreement then no restocking conditions can be imposed on any licence granted for tree felling according to that Plan. Other similar exceptions are for felling as approved in Plans of Operations of certain grant schemes. This exception, however, was removed from the current Woodland Grant Scheme.

No restocking conditions can be applied to felling licences for felling trees on land of an interest in which belongs to the Crown (Her Majesty in right of the Crown or of the Duchy of Lancaster or to the Duchy of Cornwall), and land of an interest in which belongs to a government department or is held in trust

for Her Majesty for the purposes of a government department. Other exceptions from the need for a felling licence include:

- Felling by statutory undertakers, providers of gas, electricity and water services, where the felling is essential for the provision of these services;
- Small scale felling where the trees have a diameter of eight centimetres or less, thinning with a diameter of ten centimetres or less;
- Felling necessary to prevent danger or a nuisance;
- Felling necessary to prevent the spread of diseases.

However, although Crown land is normally exempt from the application of restocking conditions in a felling licence, restocking conditions can be imposed, but only with the agreement of the appropriate authority, normally the Crown Estate Commissioners or other government department managing the land. In practice, restocking conditions are mutually agreed upon.

### 2.1.2 General Findings

The results of the country review show that the applicable forest laws include either specific regulations for obligatory reforestation after final cuttings or regulate the subject in a general manner as part of sustainable forest management and forest management planning. The need to avoid severe damage or disappearance of forests following natural calamities and impacts from forest fires is another issue that is addressed in this context. However, the legal requirements in national laws are often not formulated in a detailed manner and need country specific interpretations. Subsidiary regulations to the forest law or other legal texts may have to be consulted. Notable differences with regard to forest law regulations concerning reforestation obligations are:

- Differences in how detailed the regulations of the forest law are. In several cases the provision of the law is quite general and does not set specific commitments for obligatory reforestation after final cuttings.
- Emphasis is usually put on replanting as obligatory after clear-cuttings whereas provisions concerning natural regeneration are either missing or are vaguely formulated.
- In many countries the law does not determine time limits for replanting or natural regeneration nor does it determine criteria of what is to be considered a successfully regenerated forest stand.

Reforestation is obligatory and some kind of time limit for regeneration is defined in the forest laws of Austria, Bosnia and Herzegovina, Bulgaria, Croatia, Czech Republic, Finland, Hungary, Lithuania, Poland, Romania and Sweden. The law of Estonia requires in a general way owners to ensure the conditions for regeneration and reforestation. It obliges to replant clear cut areas and degraded stands, but it does define under which conditions natural regeneration may be practiced.

The laws of France, Germany, Slovak Republic and Switzerland provide for reforestation in a general manner as part of the principle of sustainable forest management and planning. In the case of Switzerland and Germany the state forest laws of the Cantons and Länder contain complementary provisions and have to be consulted. According to the law of Slovenia, reforestation is obligatory but there are no detailed regulations concerning natural regeneration. The law of the Russian Federation obliges forest users to carry out reforestation work but obligations of lease and concession agreements concerning forest reproduction are made on a case by case approach. No time limits for satisfying regeneration periods are defined in the law.

In Norway the law does not include strict rules for regeneration, but provides that felling has to be done in such a manner that it promotes future production or re-vegetation. Somewhat similar is the situation in the United Kingdom where the felling licences issued on land managed by the Forestry Commission usually include conditions for restocking. In the forest law of Turkey protection and extension of forests is considered important, but little is said on replanting or natural regeneration. In Cyprus, no specific

regulations exist but the silvicultural system practiced in the state forests encourages natural regeneration and planting is used when natural regeneration fails.

On the basis of the reviewed forest acts a common European approach on rules that concern legal commitments regulating regeneration of forest stand after cutting or loss of forest cover due to other interventions and natural calamities could be formulated as follows.

- A cleared area on forest land shall be reforested in a reasonable time frame as specified by regulations and/or national forest management authorities.
- The forest owner shall regenerate forest stands after clear-cutting or if destroyed due to forest fires, diseases or storm damages.
- Replacement of forest stands can either be performed by natural regeneration or artificially by planting and seeding.
- Species adapted to the site and quality of the planting stock are to be specified on an ecological basis by implementing rules, guidelines or regulations.
- Changes of forest land into other forms of land use (agriculture/urbanisation/industrialisation) need a separate and specific regulation procedure by the national forest law.

## 2.2 Regulations Concerning Public Access to Forests

Public access to forest is a fundamental right of people in many European countries. The principle of free access subject to certain restrictions ensures the availability of forest for recreation and amenities and has considerable importance for public health and welfare. Public access to forest is an important issue in regulating the relationship between forest owners, the state and society and has therefore been included in the current analysis of national forest legislation. The assumption is that in most of the European countries people have a right to access forests, which is, however, in some countries limited to public forests. It is of interest to find out whether public access is an issue in current forest laws and to what extent specific regulations on the practice of the right of access respectively legal restrictions exist.

### 2.2.1 Synopsis by Countries

**Austria:** This country offers a typical example where public access to forests is legally acknowledged *'Anyone may, notwithstanding the provisions of Subsection 2 and 3, and Article 34, enter the forest for recreational purposes and spend some time there'* (Forest Act, 1975, Article 33). The Austrian law establishes as well the principle that public access to a determined forest area may be subject to certain restrictions. It provides that forests may not be used for recreational purposes if the competent authority orders prohibition of entry, if plant growth in regenerated forest stands or on newly afforested land has not yet reached a height of three metres, or if the forest area has operational facilities such as wood-storage installations and tree nurseries. *Forests may be excluded from use for recreational purposes by the owner of the forest temporarily or permanently* (Article 34). Bans subject to a time limit are permissible for as risk in which tree felling is ongoing, and forest and in areas devoted to special plantations or to viewing animals or plants.

Access may be regulated or restricted for specific uses and/or may require the consent of the land owner. For instance, camping, driving or riding vehicles, or horse-riding are only permissible with the consent of the forest owner, and the use of forest roads requires permission of the institution or person responsible for maintenance. Skiing in forests is permitted in the area of ascending aids, on marked trails or special ski routes. Cross-country skiing without marked courses is only permitted if practised with the necessary care and with consent of the owner of the forest. The consent may be restricted to certain categories of users or and during certain time periods of use. Where proper forest management permits, the responsible agent for a forest road shall tolerate vehicles used for emergency purposes or the use of shelter huts accessible via the forest road.

**Bosnia and Herzegovina:** According to the Law on Forests (2002, Article 15), *'all persons shall have the right to enter the forests or forestland for the purpose of recreation, if not otherwise laid down in this or any other Federation Law'*. Persons using the forest or forest land shall be deemed to assume the

responsibility for risks in such act. The Cantonal Forestry Management Company or the forest owner shall not be obliged to take special precautions with respect to visitors and users of the forest. The forest owner shall not be held liable, except in the case of wilful conduct or gross neglect, for any damage or injury incurred by visiting persons. Without special permission, it is forbidden to pitch a tent or otherwise camp inside the forest, to install bee hives, to hunt, fish or trap, to collect secondary forest products weighing more than 1 kg, to disturb or remove border or other markers, signs or stones, to enter closed forest areas and forest roads, to enter areas of natural regeneration, reforestation areas and forest tree nurseries, and to enter areas and infrastructure intended for hunting. Motor vehicles are generally forbidden in forests, but permission maybe granted upon reimbursement or payment of a fee.

**Bulgaria:** The Bulgarian Forestry Act (1997) does not explicitly refer to public access to forests. According to the law, forests are, however, divided into various use categories, one of which are recreation forests such as resort forests areas and forest parks outside settlements. Traffic of motor vehicles through in areas of the forest stock is permitted only along specified and marked forest roads and locations (Forestry Act, 1997, Chapter 5, Article 76).

**Croatia:** In general forest and other wooded lands are accessible to the public. A special regime of access applies only for fully protected reserves and national parks. According to Law on Forests (1990) the use of forest roads may be allowed to individuals and legal entities under certain conditions and against financial compensation. Open fire is allowed only on specified places. The law does not include other regulations concerning access to forests.

**Cyprus:** In state forests, access is regulated by the Forest Law (1967), which provides that forest roads constructed by the administration serve principally for forest protection and management and not for general public use. Public paths passing through state forests are subject to the same conditions. The main restriction for public access in state forests concerns the case where the Director of the Department of Forests may decide under special circumstances to prohibit access to a specific forest road. The prohibition of access by car is under the discretion of the Director. Camping and picnicking is allowed on specified and organised sites. In private forests provisions of trespassing private landowner rights apply. However, is customary that any person may enter and remain on any private forest land for recreational purposes if she/he does not cause damage. The public has the right for access and reasonable use of the traditional public paths that cross forest land.

**Czech Republic:** According to the Act on Forests (1995), Article 19 *“individuals shall be entitled to enter the forest at their own risk. While doing so, they shall be obliged not to damage the forest and not to interfere with the forest environment, and they have to follow instructions of the owner or tenant and their staff”*. At the suggestion of the land owner or on its own initiative, the state forest administration may, for reasons of forest protection or in the interest of health and safety of the public, decide to enforce temporary entry restriction or to close the forest to public access. Such a decision may be taken for a maximum period of three months. Similar decisions may be made enforced by a generally binding notice of the competent municipalities. Entry to forests, which are essential reasons of national defence, is regulated by special legislation.

Organized meetings or mass sporting events may be held in the forest provided that notice is given to the relevant state forest administration unit. The notice to be given by the organizer not later than thirty days prior to the date of the event shall specify the place and duration of the event, the expected number of participants, the organizational arrangements, and the agreement of the forest owner. The relevant state forest administration body may set out conditions within 15 days from the service of the notice. The Act sets rules concerning the prohibition of certain activities in the forests, the compensations for damages, and the safety of persons and property. General restrictions exist to enter forest stands where felling, handling or transport of timber is under way. Prohibited activities may include driving and parking motor vehicles, cycling, horse riding, skiing and sledging outside roads and marked paths, use of open fires and camping outside designated areas.

**Estonia:** *If forests are owned by persons in public law or they are privately owned, but not fenced or marked, (...) it is permitted to stay in the forest if no disturbance is caused, if the interest of the owner are not harmed and if his requirements are followed* (Forest Act of Estonia 1998, Article 32). Camping and making a fire is permitted only at designated places and with the permission of the owner. The owner of the

forest has the right to suspend or prohibit the use of the forest or to ride, to use roads or other constructions for specific reasons like fire protection and the protection of the forest ecosystem.

**Finland:** The right of public access has evolved over centuries from a largely unwritten code of practise and it is still largely based on the same principle. However, many aspects of the right are now regulated by various laws such as the Penal Code, the Water Act, the Nature Conservation Act, the Fire and Rescue Services Act and the Waste Act. On the other hand the Forest Act does not include specific regulations concerning the right of access to forests. The principle is that if certain type of uses of other person's property is not prohibited, the use is allowed (Ekroos 1998). *Everybody has right to roam freely in the forests, no matter who owns the land, and the right of way may be limited only by official prohibition enforced by the public authorities* (Finnish Environmental Administration 2002). Everybody is entitled to walk, ski, cycle or ride on other people's lands if this does not cause any harm to the property or to nature. Using motor vehicles in the forest is not allowed. Camping may be done temporarily in forests, if privacy is respected and no damaged is caused. However, no entry to farmyard or to cultivated fields is allowed and there is no right to light fire without the landowner's permission. According to the Act of Private Roads, owners of a private road can restrict its use. Their right to restrict the use is limited if the state or the municipality has given a subsidy for the construction. Similar rules apply to forest roads.

**France:** According to the Law on Forest Orientation (2001) the general rule is that state and municipal/communal forests are open to the public whereas private forest owners can forbid the access to their forests. Private land owners can conclude conventions or contracts on the opening of the forest to visitors with a public authority, which will then be responsible for the costs of the cleaning and insurance. According to the Forest Code (1979), walks, hiking, family picnics as well as visits of small informal groups are allowed in private forests. Permission from the forest owner is necessary for camping, organised sporting activities, and commercial activities such as guided and paid hiking tours. Vehicles including bicycles are only allowed on public roads and on private roads that are open to traffic. Regulations for conservation measures may limit or prohibit public access to forests. National respondent comments underline that public access to forests remains a sensitive issue in as much as the French civil law holds forest owners responsible for his property. According to the civil law, every owner has the right to close his property to the public. Forest owners are responsible for accidents in forest areas even without an obvious liability of the forest owner, for example, when a falling tree branch hits a hiker. This rule applies even if the owner has forbidden access. The Law on Forest Orientation attempts to encourage mutual agreements and contractual obligations between public authorities and forest owners in order to facilitate and organise public access to private forests. On the other hand it is necessary to secure security for visitors. A prefect or mayor of a local community can, for instance, prohibit access to a forest if danger impends following storms and other natural calamities.

**Germany:** The German Federal Forest Act (1975) constitutes framework legislation at the national level for all forest owner categories. It allows public access to forests for recreational purposes in a general manner. Some activities like cycling are only allowed on roads and lanes and at users' own risk. Chapter II (Section 6) of Federal Forest Act sets principles concerning forestry planning. One of the principles is that *"forests are to be preserved and structured in such a manner, as to have an optimal effect on the productive efficacy of the ecosystem, as to provide protection (...) and as to be available to the population for recreational purposes to the largest possible extent"*. Details concerning public access to forests are regulated at sub-national level by the forest laws of the Länder.

**Hungary:** Any person may at his/her responsibility walk and stay on the forest-land for recreation and sport purposes, unless the party entitled to do so has regulated or limited such visits in accordance with provisions set forth in the Act on Forests and Protection on Forests (1996). Forest-lands shall, however, not be utilised for such purposes in afforestation areas, on a land serving the production of forest propagating stock, in fully protected forest reserves, or if entrance to a forest area has been formally prohibited for reasons of forest protection and nature conservation, or by a competent army official, frontier-guard or national security organ. Furthermore, a forest manager may temporarily *'restrict or specify conditions to the visiting of certain parts of the forest-land, in case the stay there endangers or hinders the life or physical safety, or safety of assets of others, and if performing of certain forestry works'*. The forest manager shall not claim a fee for visits on forest-land, but is entitled to do so for reimbursement of damages and expenses actually incurred. Visitors shall not cause any damage on forest-land, and shall not disturb the

peace of persons staying there or the proper forestry activities. The forest manager may allow camping or parking a caravan for a period longer than twenty four hours for recreation and sport purposes. He may designate and establish tourist paths, construct and operate equipment for tourism, operate or allow the operating of temporary vending place, and admit sport competition events. On forest-land cycling, horseback riding, driving a motorcycle or car is only permitted on designated roads.

**Liechtenstein:** According to the Forest Act (1991), Section II, Article 15, “*forests have to be accessible to the public. If necessary for reasons of maintaining the forests or due to other public interests the forest authority, having heard the opinion of the concerned forest owners, has to restrict access to certain forest areas and to provide for an authorization of organized events in forests*”. Every utilisation of forests having damaging effects on forests such as horse riding and cycling off-side forest roads, variant-skiing, camping, setting up a caravan and suchlike is prohibited. The forest authority decides on exemptions. Forests and forest roads can only be used with motor vehicles for forestry, hunting, agriculture and alp grazing purposes.

**Lithuania:** The Law on Forests (2001) determines that ‘*physical persons shall have the right to visit forests freely, except for forests of strict reserves and special purpose objects and forests where it shall be limited by the Law*’ (Chapter I, Article 8). For important reasons, such as forest cuttings, necessity to preserve forest resources, forest businesses, access to forests can be prohibited or restricted. Information signs established by forest managers, owners or users shall indicate prohibited or restricted forest areas.

**Norway:** Public access to forests is largely based on the same principles as in Finland and Sweden. The right of access to uncultivated land is set out in the Outdoor Recreation Act (1957). *Everyone has a right of access to uncultivated land in the countryside, regardless of who owns it, but no damage or inconvenience is allowed to be caused* (The environmental authorities of Norway 2002). The right of access does not apply to the use of a motor vehicle, whereas access is allowed, with some exceptions, for horse-back riding or cycling on roads or paths and in uncultivated mountain areas. Camping is not permitted for more than two days at a time without permission. The distance to the nearest house must be at least 150 m (Outdoor Recreation Act 1957). Open fires are not permitted between April and September.

The Forest and Forest Protection Act (1965 with amendments) has regulations related to outdoor recreation. It stipulates for instance that harvesting shall be planned and performed with due regard to outdoor recreation, The Ministry of Agriculture may prohibit or restrict final felling in forest stands for a specific period of time, if it is to be assumed to cause an essential harm on recreational use. The public authorities may also refuse to issue conditional permission for certain forestry operations e.g. drainage and afforestation of land, if it finds it necessary to prevent inconvenience to outdoor recreation. The Ministry may make similar regulations for road construction. The King may establish more severe regulations that apply to forest areas of particular value for outdoor recreation (Chapter III, Section 17b).

**Poland:** *Access of visitors is allowed in public forests whereas a private forest owner may prohibit access to his forest* (Act Concerning Forests, 1991). Access is also permanently forbidden in forest cultures up to height of four metres, in experimental plots and seed stands, in animal refuge reserves, in the surrounding of springs and in areas threatened by erosion. Periodic restrictions on access can be made e.g. in case of fire risk. It is prohibited to camp outside places designated by the forest owner and to light fires outside of places designated for this purpose. Entry into a forest by motor- or animal-drawn vehicles is only allowed on public roads. The use of other forest roads is permissible if marked with signs permitting traffic.

**Romania:** The Forest Code of Romania (1996) does not include many specific regulations concerning public access. In a general way the Code provides that other than for management and administrative purposes access of the public is not allowed in certain areas such as in forest areas in process of regeneration, in forest cultures and plantations with a height of less than five meters, and in natural and scientific reserves. Access to public forests with motor- and animal-drawn vehicles is permitted only on permanent forest roads. Exceptions may be made by the competent authority.

**Russian Federation:** According to Article 21 of the Forest Code (1997) citizens have the right to entry and stay in forests belonging to the Forest Fund. They have similar rights in forests, which are not included in the Forest Fund ‘*unless otherwise provided for in the laws of the Russian federation. The rights to use of parcels of forests (...) may be restricted in favour of other interested persons on a basis of contracts*

(*etc...*)'. Article 86 defines in more detail citizens' right of entry and stay in forests and the cases in which such rights may be restricted.

**Slovak Republic:** The Forest Act (1993) provides that *anyone can enter forest land and forest stands while keeping indispensable caution and not disturbing the environment*. The competent organ of the state administration or the forest user with the consent of this organ can forbid or limit public access to forest areas if this is required for reasons of forest protection or for other important interests of society (Section II, Article 4). As a general rule it is prohibited to make a fire, to camp, to enter or to park motor vehicles, to enter forest nurseries and places being fenced, to cut trees, to collect seeds, to disturb the soil cover, to disturb peace and silence, to form landfills or to pollute forests with waste and garbage, to graze cattle and to facilitate free ranging of farm animals in forest stands.

**Slovenia:** *The Law on Forests (1993) guarantees free public access to forests (Article 5)*. However, forest owners have the right to close certain forest areas to public access for reasons of protecting regeneration, wildlife protection and in order to protect forest ecosystems in general. Forest roads can be used publicly, but at the responsibility of the users (Article 39). Driving off forest roads is only allowed in special cases and to a much limited extent.

**Sweden:** As in Finland and Norway rights of public access are far reaching. There is no specific law that determines what public access rights include, and the Forestry Act is not much specific on this issue. However, several laws, like the Environmental Law and the Penal Code have some provisions that relate to public access rights on land. *In general rights of public access allow to people to enter and stay for a limited time on land by foot, skiing, cycling or riding, provided that no damage is done by such uses and reasonable care is exercised by the users*. Everybody is also allowed to camp temporarily and if there is no risk that fire will spread, it is also allowed to light a campfire. However, no access is allowed to private plots, i.e. in areas close to settlements. Forest roads may be closed to public motor traffic. The use of motor vehicles off-road is not allowed.

**Switzerland:** Chapter 2 on protecting forests against human interference of the Federal Law on Forests regulates in some detail access to and traffic the forest. Article 14 obliges the Cantons *to ensure that the public has access to the forests*. It empowers the Cantons to restrict access to certain forest areas and to regulate the organisation of any large-scale events subject to a special authorization if this is necessary for the purposes of forest conservation or for some other reason of public interest such as the protection of wild plants or animals. Article 15 regulates motorised traffic and determines that motor vehicles are allowed to operate in the forest and on forest roads only for the express purpose of performing forestry management tasks. The Federal Council decides on exceptions for reasons in the public interest. The Cantons may allow motor vehicles to operate on forest roads for purposes other than forestry management tasks if this does not pose a threat to the conservation of forests and is not prejudicial to the public interest.

**Turkey:** For access to privately owned forest land the permission of the landowner is needed. Customarily such access is, however, in most cases possible. The Forest Law No. 6831 (1956, and amended) is not much explicit on public access rights. It defines prohibited actions in state forests, but does not regulate otherwise access to the forests. Some prohibitions are made as for example to spend the night in the forest and to make fires in places, which have not been designated for such a purpose by the public forest administration.

**United Kingdom:** Access to the countryside is regulated by the Countryside and Rights of Way Act (2000, England and Wales), and by other laws as, for example, by the Law of Property Act (1925), the Commons Act (1899) and the National Parks and Access to the Countryside Act (1949). The Forestry Act (1967) does not include specific regulations concerning public access to forests. Scotland is in the process of passing its own legislation concerning public access.

The Countryside and Rights of Way Act (2000) regulates access to 'open country' in England and Wales. 'Open country is mainly mountain, heath and moor-land. The legislation also allows access to forests, which are on common land either publicly or privately owned, and to forests that can be dedicated under the terms of the Act as access land. The right of access will not apply to forests outside these categories. The commencement of the right of access under this legislation is expected to take effect before the end of 2005.

According to chapter I of the act, any person is entitled to enter and remain on any access land for the purposes of open-air recreation, provided that the person does not cause damage. Access to land is not allowed in vehicles other than invalid carriage. Lighting a fire is prohibited. Chapter II of the Countryside and Rights of Way Act defines other restrictions that land owners or the competent authorities may determine such as to restrict access when land management operations such as tree harvesting are taking place. Access to the countryside is possible using public rights of way, which allow access by foot, horseback, cycle and horse-drawn vehicles (Countryside and Rights of Way Act (2000); Department for Environment, Food and Rural Affairs 2002).

The Forestry Commission permits access to as many public forests as possible that are managed by the Commission in England, Wales and Scotland (Forestry Commission 2002). The permission is given via byelaws. Access is permitted to walkers and hikers only, but in many forests cycling and equestrian use is also allowed subject to specific conditions. Laws of trespass control access to private lands in England and Wales. A person who is unlawfully on land can be subject to criminal proceedings. In Scotland, if the Land Reform Bill will become law, there will be right of access to all woodlands (private and public) on foot, riding or on a bicycle. There is no law of trespass in Scotland, but a person can be guilty of an offence if causing damage to property.

Comments by national correspondents underline that rights of access to forests vary between different parts of the country. Variations in terms of right of access to forests also depends to a large extent on different ownership structures. In this context, the Forestry Commission plans to dedicate woodlands, which it owns in England and Wales. On the other hand the Commission has at the present time no plans to dedicate land, which it holds on lease terms, which are about 25% of the estate. In the absence of incentives it will be unlikely that many forest access dedications schemes will be made by private forest owners in England and Wales. This is because dedication is in perpetuity. Private forest owners would need regulations, which provide for limited periods of access rights, for example, 40 years or lifetime rights. The position in Scotland will be somewhat different if the Land Reform Bill is adopted which provides access rights of the public for all woodlands.

### **2.2.2 General Findings**

Public access rights to forests are based on long lasting historical developments and are today an important part of social sustainability of forestry. In many cases existence of these rights are acknowledged and possible restrictions determined in forest laws. However, this is not always the case. Especially in the Nordic countries, where public access rights are possibly the widest in Europe, these issues are generally only partly described in the national legislation (Saastamoinen 1999). Most of the countries under review guarantee free access to certain categories of forests. However, such access rights are usually subject to certain specified conditions and to more or less explicitly defined restrictions and/or prohibitions. The general rule conditioning access to forests is that the entitled visitors must avoid damage, harm or inconvenience to the land owner, his property and to the forest respectively the forest environment. Notable differences between the various regulations at country level are:

- Whether public access rights to forests are regulated by the forest law or by other legislation.
- The extent of formally acknowledged access rights in forests and the precision with which they are regulated.
- The differences in regulating access rights between private and public forests.
- The differences in determining the allowable uses of forest visitors.
- The extent of the rights and obligations of landowner and forest authorities to regulate, restrict or prohibit public access rights in determined areas or forest stands and the reasons, which justify such regulations and prohibitions.
- The possibilities of forest owners and public authorities to regulate, restrict or prohibit certain conditions of access, the use of motor vehicles, and certain use practices of forest visitors.
- The incentives to private forest owners for allowing access and use practices of visitors in their forests.

- Reimbursement of additional costs for appropriate installations that result from public access in forests, and reimbursement and compensation for damages that may be caused by visitors.

Most of the analysed countries guarantee free access to forests usually including some restrictions or prohibitions – the minimum restriction being that no damage, harm or inconvenience is caused by the visitors. However, in the United Kingdom for instance access is only allowed in public forests whereas access in private forests and wood-lots requires an authorization from the owner. Similarly in Turkey access to privately owned land is allowed with permission and in Poland and France private forest owners may prohibit access to their forests. In several countries like Austria, Czech Republic, Estonia, Hungary or Slovenia owners are entitled to restrict access to the forest for specific reasons. In Switzerland the Federal Forest Law obliges the Canton to ensure that the public has access to the forest but provides also that the Cantons are empowered to restrict access to certain areas if it is necessary for the purpose of forest conservation or some other reason of public interest. Some forest laws do not explicitly refer to public access although they may regulate the use of forest roads such as in the case of Bulgaria, Croatia, Cyprus, Finland and Romania.

The form of access e.g. by foot, cycling, riding or using motor vehicles is regulated in the analysed laws to a varying extent. The most important and widespread regulation refers to the use of motor vehicles, which is generally prohibited for the public or severely restricted. Exceptions to this rule may be made by the competent public authorities and/or by the land owners for specific reasons as determined in the law. Driving of motor vehicles off road and also on certain forest roads is for example prohibited in countries like the Czech Republic, Hungary, Liechtenstein, Switzerland and Sweden. Cycling and riding may be restricted to determined paths and roads such as in Austria, Germany and Norway, access to certain categories of forest lands may be prohibited with motor vehicles e.g. Bosnia and Herzegovina and the Slovak Republic or public access to certain forests may not be possible for any vehicle e.g. in the United Kingdom.

On the basis of the analysed forest acts a common European approach on public access to forests could be considered in the following manner:

- The public has the general right to access forests provided that no damage or harm results from such uses to forest stands and to the forest environment.
- Appropriate precautions have to be taken by the visitors in order to avoid inconveniences to forest owners and damage to their property that result from the admitted access and use practices.
- Necessary instructions of the owner or tenant of the forest are to be respected.
- Restrictions of access and use rights may be determined by the competent public authorities and/or the forest owner for reasons of forest protection or in the interest of health and safety of the public.
- Allowable restrictions and prohibitions need to be specified by law and regulations

### **2.3 Public Use of Non-Wood Forest Products (NWFP)**

In the past public use of non-wood forest products e.g. the collection of mushrooms, leaves, berries and litter as well as brushwood was essential for human life in rural areas. Nowadays, the collection and use of non-wood forest products has in some countries mainly an importance in the context of recreation and amenity. In other countries, however, the use of NWFP is still a significant part of family consumption in rural areas and a source of additional income for farmers and villagers. Especially in Scandinavia and in some Eastern and Central European countries the commercial and trade value of some NWFP such as mushrooms and berries that are collected in forests is considerable.

The assumption is that in most European countries the public has certain rights to use non-wood forest products for non-commercial/individual purposes and that this right is somehow regulated in national forest legislation. It is also assumed, that country regulations may limit the rights, especially the collection of NWFP for commercial purposes.

### 2.3.1 Synopsis by Countries

**Austria:** The Austrian Forest Act (1975 and amendments) only allows the collection of non-wood forest products such as fruits, seeds, mushrooms, twigs, earth, turf or other soil constituents in small quantities. Article 174 makes it an administrative offence to collect without authorisation fruit or seed of woody plants for the purpose of profit, mushrooms to a quantity of more than two kilograms per day, or to conduct or participate in mushroom or berry collection events.

**Bosnia and Herzegovina:** Without permission, pasturage, feeding livestock with acorns, browsing, cutting branches and gathering litter and mosses is not allowed in state or private forests (Law on Forests, 2002). *The Cantonal Forestry Management Company may cultivate and use secondary forest products (medicinal and aromatic herbs, mushrooms, forest fruits, snails, crabs, raspberries, blackberries, blueberries as well as resins) or allow their utilisation to other legal and physical persons in quantity and on locations designated in the forest management plan and according to documentation issued by the authorities* (Article 9). It is forbidden to extract humus, loam, peat, peat moss, sand, gravel, lime, clay, stones, or minerals as well as to remove the bark from standing trees, any foliage, bark, lop and top, other woody debris and forest residues, litter, or other organic by-products of harvesting, which are necessary to enhance soil nutrition and fertility. The authorities and the forest owner may for their own needs as well as against compensation, for the needs of citizens and other legal persons, utilise these secondary products.

**Bulgaria:** According to the Forestry Act (1997), Chapter 4, Article 63 defines as incidental uses in forests and lands of the forest stock: the extraction of resin, pine splinters, haymaking, baste, seeds with the exclusion of remedial plants; the picking of mushrooms, forest fruit with the exclusion of fruit from remedial plants; the collection of other plants and animals which are not game; the grazing of livestock and other uses, timber use excluded. Incidental uses are not allowed, when their object are plant and animals species protected by law. The use of remedial plants shall be regulated by a separate act. *The extraction of resin and pine splinters may only be carried out in forests, scheduled for restorative felling. The picking of mushrooms, forest fruits with the exclusion of such from remedial plants, other plants and animals which are not game in forests and lands of the forest stock must be carried out by means and in a manner not leading to harming or destroying the populations and their habitats* (Chapter 4, Article 65).

**Croatia:** The Law of Forests (1990) prohibits cutting of branches or pruning of foliage unless envisaged in specifically defined plans; pasture, browsing and acorn feeding; and the exploitation, collection or transport of certain by-products of the forests, e.g. dry leaves, moss, humus or sand. Under determined conditions the use of certain by-products, pastures etc. are allowed, but subject to compensation. The forest management programme sets limits for the use of NWFP and some other form of uses by forest owners. The law does not distinguish between the gathering of NWFP for private consumption and for commercial use. Special regulations shall be passed specifying in more detail the use of NWFP and uses of forests for recreation.

**Cyprus:** The Forest Law (1967 and amendments) prohibits the collection of any non-wood forest products when found in or brought from any state or private forest placed under government control, unless permission is granted by the Director of the Department of Forests. Under the law, non-wood forest products include branches, leaves, flowers, fruits, seeds, roots, bark, charcoal, grass, plants, moss, fungus, lichens, gum, oil, resin, pitch, tar, honey, wax, humus, soil, sand, gravel, stones, rock, minerals and water. The law does not distinguish between the gathering of non-wood forest products in private or commercial use. The law provides that harm to or collection of any wild vegetation can be subject to prosecution. Grazing is prohibited in main state forests; it is only allowed in grazing areas in minor state forests provided that a licence has been obtained. Comments of national correspondents underline that the provisions of the law concerning NWFP are difficult to enforce in view of customary practices to collect freely products such as mushrooms, edible herbs, aromatic and medicinal. The inhabitants of certain villages can get a license without fee or charge to gather fuel wood from state forests for their own domestic needs.

**Czech Republic:** *‘Every individual shall be entitled.... to collect for their own needs any forest products and dry brushwood lying on the ground.* While doing so, they shall be obliged not to damage the forest, not to interfere with the forest environment and to follow the instructions of the owner or tenant of the forest and his staff (Act on Forests, 1995, Article 19). The Act pays special attention to beekeepers who *‘may,*

*with the consent of the owner of the forest and in the interest of the promotion of ecological balance, pollination of plants, use of honeydew and improvement of the production of seed of forest tree species, put their bee swarms on forest land*'. The Act prohibits activities such as lifting of seedlings and transplants of trees and bushes of forest tree species, felling or damaging of trees and bushes, the collection of seeds of forest tree species or fruit products in a manner damaging the forest and the collection of bedding, grazing of livestock, enabling runs of livestock and punching of livestock through forest stand.

**Estonia:** According to the Forest Act of Estonia (1998), *the public has the right to gather specified non-wood forest products e.g. berries, mushrooms, herbs and nuts in all forests where there is free access* subject to certain restrictions. The owner of the forest is required to apply for a permit to collect forest products and to use methods that do not endanger the productivity of the site. If the owner has incurred expenses for increasing the productivity of NWFP, he has the right to charge a fee for the gathering of products by third parties. The law does not separate the gathering of NWFP for private or commercial use.

**Finland:** *In Finland everybody is allowed to pick berries, mushrooms, flowers, dry twigs and branches, cones and nuts found on the forest floor in all forests where the right of free access applies.* The most important natural products, which are allowed to be collected, are listed in the Penal Code. Mosses and lichen are not allowed to be collected on land owned by somebody else and there is no right to dig the land so that the surface is disturbed. In Lapland, the Ministry of Agriculture and Forestry may deny to non-local people gathering on state owned land if the collection of berries and other NWFP is significant importance for local people's livelihood.

**France:** According to the Forestry Code 1979 the collection of forest goods in private forests is forbidden. Such goods belong to the owner and his permission is needed for collecting. *Collecting mushrooms, acorns, beechnuts and other forest fruits in state or private forests is not authorized by the law, but it is tolerated for private use* (the quantity should be equal to a family's reasonable consumption). Commercial activities based on exploitation of non-wood forest products require a permission of the forest owner. Some forest owners (private and state) may organise a system of commercial licensing in particular in the case of eatable mushrooms or for certain small forest fruits such as blueberries. Grazing of cattle, sheep, horses and pigs can also be subject to a commercial licence provided that grazing is compatible with forest management. Collecting protected species is prosecuted under the environmental legislation.

**Germany:** The German Federal Forest Act (1975) does not include any regulations concerning the right to use non-wood forest products. Regulations for this are, however, laid down on a subordinate legal level. Restrictions for the collection of non-wood forest products are determined by the Federal Nature Conservation Act (2002). Following the restrictions of this act, the collection of non-wood forest products are forbidden in case of endangered plants or animals.

**Hungary:** According to the Act on Forests and the Protection on Forests (1996), *collection of mushrooms, wild fruits, flower and ornamental branches, not exceeding private needs is allowed on state-owned forest-lands, unless a legal rule provides to the contrary.*

**Liechtenstein:** Generally, habitats and living conditions of wild plants and animals must be preserved and if necessary improved (Forest Act, 1991). The act does not include specific regulations concerning public use of non-wood forest products.

**Lithuania:** According to the Law on Forests (2001), the Law on Environment Protection and requirements of other legal acts, *visiting persons can gather fruit, medical herbs and medical materials, except for plant species, the list of which is approved by the Ministry of Environment, they can gather nuts, berries and mushrooms and keep bees in state forests* (Chapter I, Article 8). Usage of medical herbs, mushrooms, berries and other forest resources can be prohibited or restricted for determined reasons.

**Norway:** The right of access permits everybody to pick berries, mushrooms and flowers everywhere where right of access applies. However, in the three northernmost counties there are special rules for picking cloudberries (Environmental Authorities of Norway 2002). No damage or inconvenience is allowed to be caused.

**Poland:** *Collection of forest fruits from herbaceous cover is allowed in state owned forests both for own needs and for commercial goal; the collection for commercial purposes requires a contract with the forest district* (The Act Concerning Forests 1991). Chapter 5, Section 30 of the Act defines activities that are

prohibited in forests, e.g. the destruction of trees, shrubs and other plants, the gathering of litter, disturbance of the soil surface, and the over-use of mushrooms.

**Romania:** The Forest Code of Romania (1996) permits grass cutting in the forests belonging to the state's public property fund. The location free of charge of beehives is permitted with the approval of the competent forest bodies. Grazing in the state forests is prohibited. Chapter II, Section 5 specifies products specific to the public forest fund. According to the Code, *'non-wood products (...) shall be harvested conformably to the technical rules elaborated by the central public authority responsible for forestry'*. In forests belonging to the private property fund, grazing is prohibited in stands in process of regeneration and in forests with special protective functions, in naturally regenerated or replanted stands of less than ten years age or with heights of less than three meters, and in poplar or willow forests under five years of age.

**Russian Federation:** According to Forest Code of Russian Federation (1997) *citizens have the right to stay in the forests, gather berries, wild-growing fruits, mushrooms etc. for their own purposes*. The right may be restricted in some cases. In practise NFWP are gathered also for commercial purposes.

**Slovak Republic:** *Anyone can enter the forest land and the forest stands (state and private forests) and collect for his private need berries, mushrooms, brushwood etc. without damaging the forest environment (Forest Act, 1993)*. The right of entry to forests and collection of berries is, however, prohibited by the Act on Nature and Landscape Protection (2002) in forest areas, which are considered as important for nature conservation.

**Slovenia:** According to the Law on Forests (1993), *the owner of the forest must allow bee-keeping, hunting and recreational gathering of fruits, herbal plants, mushrooms and wild animals in accordance with regulations (Article 5)*. If collecting NFWP threatens plant or animal species or the functions of forests, collecting may be forbidden or limited. Furthermore, if land owners cultivate trees because of their fruits, other people may be prohibited to collect them.

**Sweden:** *The right of free access allows everybody to pick berries, mushrooms and flowers (Forestry Act 1979)*. There is no right to take, branches, bark, leaves etc. from growing trees.

**Switzerland:** The Federal Law on Forests (1991) does not include specific regulations concerning the use of non-wood forest products. Restrictions may be taken in as much as all activities, which pose a threat to the forest's functions, are prohibited. Cantonal forest legislation may provide for complementary regulations.

**Turkey:** The Forest Law No. 6831 of 1956 with amendments regulates, for instance, the Collection of forest seeds or any kind of forest flora, medical and industrial plants and gallnut, and to get soil or sand for individual consumption as well as for commercial purposes. Access of any kind of domestic animal to forest is only allowed in special cases. Grazing of herds has to be done according to plans and with the permission of the forestry administration. Article 37 of the Law defines local use rights of forest products as follows: *'Except logs, poles, mine props, industrial wood, paper wood, fuel wood, stick, resin, resinous wood, boxwood, included in the annual program of the state, all other kinds of forest products and residues are allowed to be utilised in determined locations and periods, giving priority to forest villages development cooperatives or to neighbouring villagers or workers as with the payment of tariff prices (...)'*. If locals are interested in such uses the products are allowed to be utilised by others under the same conditions. The Law also provides for subsidies to village households and forest village cooperatives in sales of construction timber and fuel-wood (Forest law 1956, Düzgün 2001). Use of non-wood forests seems to be limited or one has to pay for that. Local inhabitants have privileges compared to others.

**United Kingdom:** The Forestry Act (1967) does not include regulations concerning the use of non-wood forest products. According to the Countryside and Rights of Way Act (2000, England and Wales) it is prohibited to intentionally remove, damage or destroy any plant, shrub, tree or root or any part of them. *In Forestry Commission estates similar kind of provisions apply but in practise picking berries for personal use is allowed (Forestry Commission 2002)*. Commercial mushroom collection and gathering of other NFWP in Forestry Commission forests can be licensed if this is compatible with sustainable management.

### 2.3.2 General Findings

In many countries the public has the right to use at least some non-wood forest products. Notable differences in forest law regulations are:

- The differences in the availability, respectively the economic and social relevance, of NWFP.
- The distinction between public and private forests in as much as the use regimes may show considerable differences.
- The type of products that may be collected.
- Restrictions that may be made with regard to the quantity and methods that are admitted for collection.
- Differences in regulation with regard to collection of NWFP for individual and family uses versus collection for commercial uses and trade.
- Private and public forest owner rights to require special authorizations or to issue licences for the collection of all or for certain non-wood forest products.

There is a considerable variation between the reviewed countries in terms of rights, restrictions and obligations to collect and use non-wood forest products. Five country groups can be distinguished.

1. There are countries where the rights to use NWFP are very broad and refer to different categories of ownership of the forest, for instance, in Austria, Bulgaria, Czech Republic, Hungary, Nordic countries, Slovak Republic and Russia.
2. There are countries where the public has general rights to use NWFP, but where land owners may restrict or prohibit the use of certain products or may charge fees for their collection such as in Bosnia and Herzegovina, Estonia, Slovenia.
3. There are also cases such as Poland where the collectors have considerable rights in public forests but where collection in private forests may be prohibited without permission of the landowner.
4. Another group is formed by countries where use of non-wood forest products requires generally a permission with or without payment from the collector, and where collection can be totally prohibited, for example, in private forests such as in Croatia, Cyprus, France, Lithuania, Turkey and the UK.
5. There are also countries where the national forestry law does not explicitly refer to the use of NWFP. Relevant regulations may exist in other national legislation such as nature protection acts, land ownership legislation or civil codes. In countries with a federal and state legislation such as Germany and Switzerland the complementary sub-national forest legislation has to be consulted.

On the basis of the analysed forest acts a common European approach on public use of non-wood forest products could be as follows.

- The public has the general right to gather non-wood forest products such as berries, mushrooms, nuts, leaves and brushwood.
- Collection of NWFP should not endanger the survival and productivity of the forests in which they are collected.
- The products to be collected have to be determined by law or by the private and public forest owners.
- A distinction in regulation between collection for individual and family consumption versus commercial collection may be required.
- Different legal regimes for collection of NWFP in public and private forests may be necessary.
- Restrictions of this right as well as expansions towards the use of non-wood forest products for commercial purposes require special legislative regulations.

### 3. CONCLUSIONS

The study has analysed three legal issues concerning the use of forests in 23 European countries, which are of economic, ecological and social importance to the interaction between forestry and the public. The following table summarizes the findings and provides a comparative view of the situation in the countries that have been reviewed. The compilation in table form is mainly done for illustrative purposes and complements the synopsis by countries and general findings presented in the previous sections. Altogether the analysis shows that there are common issues in the presently applicable forest laws that have been reviewed.

Even if there are considerable differences between the various forest laws, most important is the similarity in basic regulations. In all of the analysed countries legislation provides for regulations on *obligatory reforestation* either in a general manner as part of provisions addressing sustainable forestry practices and forest management plans, or in form of specific regulations in the forest law. The result of the analysis confirms thus the basic assumption that the permanent existence of forests and sustainability of forestry production is an essential requirement of governments and society in Europe. The reasons for valuing forests may differ between countries, but the goals of maintaining forests and forestry production are largely similar.

Public access to forests is allowed in most of the analysed countries as was expected. There are differences between countries in the scope and concrete content of *public access rights to forests*. For example, owners' rights to restrict access, form of access and reasons to regulate access vary from country to country, but the general pattern of acknowledging the right of the public to visit forests is largely the same. Important reasons for restricting access are related to ecosystem protection such as preservation of valuable ecotypes, prevention of erosion and fire prevention or forest management considerations such as protection of natural regeneration in an early stage or protection of forest plantations and young stands. The right to use *non-wood forest products* is provided in the legislation of most of the countries, but it is usually more restricted than the right of access to forests. Moreover the scope of rights and the intensity with which they are regulated varies considerably more between countries.

National and international policies and instruments related to forestry are commonly reflected in the forest legislation of European countries. The results of this report indicate that a common ground in European forest legislation exists. The 'bottom-up' approach chosen in this study presents an efficient tool for international dialogue on the contribution of the forest sector towards an overall sustainable development. Although the study considers only three legal issues, it presents a detailed comparison and overview of important elements of national forest legislation in Europe. The subjects that have been chosen relate to ecological, social and economic aspects of forestry. The study thus provides a basis for further debate and research on the context of European forest law. To this end, it would be promising to analyse further ecological issues related to forestry and environment as regulated in the applicable national legislation in order to complete the findings of the present study. In subsequent studies the regional aspect of forest legislation within countries should also be considered as in some countries legislation subsists on a federal and a subordinate (federal state) level where more detailed regulation is provided.

## Country Comparison of Relevant Regulations

	Austria	Bosnia and Herzegovina	Bulgaria	Croatia	Cyprus	Czech Republic	Estonia	Finland	France	Germany	Hungary	Liechtenstein	Lithuania
Reforestation defined in forest law obligatory after regeneration cutting	3	3	3	3	2*	3	2*	3	2*	2*	3	2*	3*
Public access to the forests	2**	2	0**	2**	3**	2**	2**	3	1**	2**	2**	2	3**
Right to use non-wood forest products	2	2	2	1***	1***	2	2***	3	1***	2***	2***	0	2***

	Norway	Poland	Romania	Russian Federation	Slovak Republic	Slovenia	Sweden	Switzerland	Turkey	United Kingdom
Reforestation defined in forest law obligatory after regeneration cutting	2*	3	2*	2*	2*	2*	3*	2	2	2*
Public access to the forests	3	1**	2	2**	2**	2**	3	2**	2**	1**
Right to use non-wood forest products	3	2***	0	2***	2	2***	3	0***	1**	0-1

## Significance of Figures in Table

### Reforestation Obligations.

1 = expressed very generally, no specific regulations

2 = regeneration obligations exist usually as part of sustainable forest management rules and management planning; no specific regulations concerning time limits and criteria for satisfactorily regenerated stand are provided by the forest law but in other regulations

3 = forest law provides specifically for reforestation, time limits for regeneration or criteria for satisfactorily regenerated stands

### Regulations Concerning Public Access to Forests

#### Public Use of Non-Wood Products NWFP

0 = the right does not exist or is not mentioned in the analysed laws

1 = public access strongly limited (e.g. in private forests); only limited use of NWFP

2 = right of public access or right to use NWFP generally admitted but restrictions and prohibition possible

3 = public access to forests and use NWFP generally admitted provided that no damage is caused.

## Additional Comments for Countries

### \*Reforestation Obligations

Cyprus: in state forests the silvicultural system practiced encourages natural regeneration; the forest law requires licences for felling trees

Estonia: 3 for clear cutting, but regulations concerning natural regeneration rather general

France: the forest code provides for sustainable forest management and for specific regulation for reforestation in mountain areas

Germany: no time limits defined, main regulations by forest laws of the Lander

Liechtenstein: general obligation of sustainable forest management, silviculture largely using natural regeneration

Lithuania: forests shall be reforested on an ecological basis

Norway: when the proposed revised Forest Act will pass parliament, 3 will be valid for Norway.

Romania: or 3, but reforestation in land outside forest fund unclear

Russian Federation: no time limits, unclear who is finally responsible for reforestation

Slovak Republic: no time limits ('as soon as possible')

Slovenia: natural regeneration where possible, planting if necessary and on barren sites

Sweden: 'measures shall be carried out without delay'

United Kingdom: in practice, reforestation is regulated through felling licences, meaning that an area felled must be restocked

## **\*\*Regulations Concerning Public Access to Forests**

Austria: camping, riding etc. is only permissible with the consent of the forest owner; the owner can restrict access temporarily or permanently

Bulgaria: largely customary rights of access on public forest land

Croatia: restrictions on the use of roads

Cyprus: access to specific forest roads in state forests may be prohibited

Czech Republic: temporary restriction of entry to forest in the interest of health and safety of the public

Estonia: owner has some rights to restrict access

France: private forest owner can forbid access

Germany: e.g. for camping restrictions

Hungary: the forest manager can temporarily restrict access to certain parts of the forest

Lithuania: access to forests can be prohibited or restricted

Poland: private forest owner may prohibit access to forests

Russian Federation: right of access may be restricted in favour of other interested persons

Slovak Republic: public forests are generally accessible

Slovenia: owner has some rights to restrict access

Switzerland: Access of visitors to forest generally admitted, no access of motor vehicles except for forestry management tasks.

Turkey: access to private forests requires permission, restrictions in state forests possible.

United Kingdom: no access to private forests without permission from the land owner

## **\*\*\*Right to use non-wood forest products**

Croatia: compensation needed, also restrictions for owners

Cyprus: permission needed

Estonia: in some cases owner has right to charge a fee for use

France: collection of forest goods in private forests is forbidden without permission from the owner

Germany: e.g. commercial mushroom picking restricted

Hungary: only regulations concerning state forests

Lithuania: usage can be prohibited or restricted

Poland: private owner may restrict uses; in public forest rather large rights, in some cases a contract is needed

Russian Federation: according to the law 'for own purposes'

Slovenia: owner has some rights to restrict

Switzerland: collection of NWFP is primarily subject to ownership rights as regulated in the Swiss Civil Code

Turkey: in case of commercial uses compensation needed

## 4. REFERENCES

### 4.1 Laws Examined

Austria:

Forest Act. 3.7.1975 with amendments, latest 1.6.2002.

Bosnia and Herzegovina:

Law on Forests. 27.3. 2002

Bulgaria:

Forestry Act of the Republic of Bulgaria. 29.12.1997 with amendments, latest 2002.

Croatia:

Law on Forests. 4.12.1990, amended 22.2.1991 and 30.7.1993.

Cyprus:

Forest Law. 1967 with amendments, latest 2001.

Czech Republic:

Act No. 289/1995 Coll. on Forests and Amendments to some Acts (the Forest Act). 3.11.1995

Estonia:

Forest Act 9.12.1998, amended 14.10.1999, 16.6.1999.

Finland:

The Forest Act 12.12.1996

France: LOI no 2001-602 du 9 juillet 2001 d'orientation sur la forêt

Code Forestier, première partie: Législative 25.1.1979, Code Forestier, deuxième partie: Réglementaire 7.2.1979

Germany:

Law on the Conservation of Forests and the Promotion of Forestry (Federal Forest Act) 2.5.1975.

Hungary:

Act No. LIV on Forests and the Protection on Forests. 18.6.1996

Liechtenstein:

Forest Act. 25.3.1991

**Lithuania:**

The Law on the Amendments of the Forest Law of the Republic of Lithuania. 10.4.2001.

**Norway:**

The Norwegian Forest and Forest Protection Act. 21.5.1965 with amendments, latest by L 10.01.1997 (1.3.1997)

Outdoor Recreation Act 28.6.1957.

**Poland:**

The Act Concerning Forests 28.9.1991.

**Romania:**

The Forest Code (Law No. 26/24 April 1996)

**Russian Federation:**

Forest Code of the Russian Federation. 22.1.1997 (adopted by the State Duma).

**Slovak Republic:**

Act on Forests. 13.7.1993.

**Slovenia:**

Law on Forests. 26.5.1993.

**Sweden:**

Skogsvårdslag (1979:429), with amendments, latest 2001

Switzerland: Federal Law on Forests, 4.10.1991 (the law is amended after that)

**Turkey:**

Forest Law No. 6831 (1956, amended 1983, 1986 and 1987)

The Constitution of the Republic of Turkey (1982)

**United Kingdom:**

Forestry Act 1967

Countryside and rights of way act 2000.

## 4.2 Publications and Information Sources

- Chaytor, B. (2002) The Development of National Forest Programmes: Guidance from International and European Legal and Institutional Frameworks, in Zimmermann, W. and Schmithuesen, F. (eds.): *Legal Aspects of National Forest Programmes*, Forest Science Contributions No. 25, Chair Forest Policy and Forest Economics, Swiss Federal Institute of Technology, Zuerich, Switzerland, p. 11-24
- Cirelli, M.T. (1999) *Trends in Forestry Legislation: Central and Eastern Europe*, FAO Legal Papers Online #2, <http://www.fao.org/Legal/default.htm>
- Cirelli, M. and Schmithuesen, F. (2000) *Trends in forestry legislation: Western Europe*, FAO Legal Papers Online #10, <http://www.fao.org/Legal/default.htm>
- Department for Environment, Food and Rural Affairs (2002), <http://www.defra.gov.uk/wildlife-countryside/c1/bill/factsheet/index.htm#3>
- Düzgün, M. (2001) *Subsidies and strategies for the contribution to development of forestry-dependent mountain communities in Turkey*, Proceedings of the World Mountain Symposium, 30.9. - 4.10. 2001, Interlaken, Switzerland,  
[http://www.wms2001.ch/cd/publications/publication\\_168.htm](http://www.wms2001.ch/cd/publications/publication_168.htm)
- Environmental Authorities of Norway (2002),  
[http://62.92.38.7/Topics/Outdppr\\_recreation/outdoor\\_recreation.stm](http://62.92.38.7/Topics/Outdppr_recreation/outdoor_recreation.stm)
- European Forest Institute (2003), <http://www.efi.fi/efidas>
- FAO Legal Office (2002a), [http://www.fao.org/forestry/fo/country/nav\\_world.jsp](http://www.fao.org/forestry/fo/country/nav_world.jsp)
- FAO Legal Office (2002b) *Law and Sustainable Development since Rio – Legal Trends in Agriculture and Natural Resource Management*, FAO, Rome, Italy, p. 269-300
- FAO Development Law Service (2002c) *Forestry Legislation in Central and Eastern Europe: A Comparative Outlook*, FAO Legal Papers Online #23, <http://www.fao.org/Legal/default.htm> (update of paper by Cirelli, 1999)
- FAO (1997) *Issues and Opportunities in the Evolution of Private Forestry and Forestry Extension in Several Countries with Economies in Transition in Central and Eastern Europe*, FAO, Rome, Italy
- Finnish Environmental Administration (2002) <http://www.vyh.fi/eng/environ/naturcon/everuman/manindex.htm>
- Forestry Commission (2000), *Tree felling – Getting permission*, [http://www.forestry.gov.uk/website/pdf.nsf/pdf/wgsfell.pdf/\\$FILE/wgsfell.pdf](http://www.forestry.gov.uk/website/pdf.nsf/pdf/wgsfell.pdf/$FILE/wgsfell.pdf)
- IUFRO (2002): <http://iufro.org.iufronet/d6/wu61300/pu61300.htm>
- Le Master, D.C.; Herbst, P.; Schmithuesen, F., Eds., (2003): *Experiences with New Forest and Environmental Laws in European Countries with Economies in Transition*. Forest Science Contributions Volume 29, Chair Forest Policy and Forest Economics, Swiss Federal Institute of Technology, ETH, Zurich.
- Le Master, D.C. and Owubah, C.E. (2000) Nation States and Forest Tenures – An Assessment of Forest Policy Tools in Eastern European Countries, in Schmithuesen, F., Herbst, P. and Le Master, D.C. (eds.): *Forging a New Framework for Sustainable Forestry: Recent Developments in European Forest Law*, IUFRO World Series Vol. 10, Secretariat Vienna; Chair of Forest Policy and Forest Economics, ETH, Zuerich, p. 28-38
- Lobovikov, M. (2000) *Economic aspects of the Russian forest Code 1997*, IUFRO World Series volume 10.
- Miller, H.G. (2000) Policy and law development for sustainability at the forest level in Great Britain, in: Schmithuesen, F., Herbst, P. Le Master, D.C. (eds.): *Forging a new framework for sustainable forestry – recent developments in European forest law*, IUFRO World Series Volume 10: 329-337, IUFRO Secretariat Vienna; Chair of Forest Policy and Forest Economics, ETH, Zurich.
- Saastamoinen, O. (1999) *Forest policies, access rights and non-wood forest products in northern Europe*, Unasylva 198, Vol. 50, p. 20-26.

- Schmithüsen, F.; Iselin, G.; Herbst, P.,(Eds), 2002: Forest Law and Environmental Legislation. Proceedings of the IUFRO Research Group 6.1300. Forest Science Contributions of the Chair Forest Policy and Forest Economics, Volume 27; Swiss Federal Institute of Technology, ETH, Zurich/Switzerland. (253 pp.)
- Schmithüsen, F.; Herbst, P.; Le Master, D.C., Eds. (2000). *Forging a new framework for sustainable forestry – recent developments in European forest law*. World Series Volume 10, IUFRO Secretariat, Vienna.
- Schmithüsen, F. (2000) The Expanding Framework of Law and Public Policies Governing Sustainable Uses and Management in European Countries, in Schmithüsen, F., Herbst, P. and Le Master, D.C.(eds.): *Forging a New Framework for Sustainable Forestry: Recent Developments in European Forest Law*, IUFRO World Series Vol. 10, Secretariat Vienna; Chair of Forest Policy and Forest Economics, ETH, Zuerich, p. 1-27
- Swedish Environmental Protection Agency, <http://www.internat.naturevardsverket.se>
- Tarasofsky, R.G. (1999) *Assessing the International Forest Regime*, IUCN Environmental and Law Paper No. 73, IUCN Gland, Switzerland and Cambridge, UK in collaboration with IUCN Environmental Law Centre, Bonn, Germany
- Zimmermann, W.; Schmithüsen, F., Eds. (2002): The Legal Basis of National Forest Programmes. Proceedings NFP 19. Forest Science Contributions, Volume 25; Chair Forest Policy and Forest Economics, Swiss Federal Institute of Technology, ETH, Zurich/Switzerland. (153 pp.)

## **Annex Questionnaire of the Inquiry to National Experts**

### **Cover Letter**

Dear forest legislation expert,

The UNECE Timber section is carrying out a project to analyze and compare selected legal issues of forest legislation of European countries. The main goal of this synopsis is to analyze similarities (common issues and approaches) in national forest related legislation in issues with importance to society. In the recent past, much international cooperation on sustainable forest management has been “top-down”, starting with basic principles, and then translating them into more detailed approaches and measures. This study attempts a complementary “bottom-up” approach: to examine the content of existing national legislation, to ascertain whether or not the same fundamental approaches are implemented in different countries.

The legal issues that have been analyzed in more detail so far are (1) obligatory reforestation after loss of forest cover through final cutting, fires or other reasons for vanishing of forest stands, (2) public access to forests and (3) public use of non-wood forest products. We would like to add one or more legal issues to be analyzed later on, and we would therefore be pleased to get your proposals for these. More detailed information of the goals of the project, the analyzed countries and used policy documents as well as some preliminary results can be found in the attached draft working paper.

The draft working paper presents the current stage of our work. At this moment, before further carrying on the project, we would need a feedback of our work from both the countries already included in the analysis and from countries not yet analyzed. That is the reason why we are now approaching you. We would like to request you to comment the draft working paper and fill in the attached inquiry. Please do not feel limited by the prepared lines. If you consider that some other person in your organization or your country could be also an expert in this field (e.g. specialized to forest legislation issues), we would appreciate if you could pass the inquiry to the person in question.

Please, send the questionnaire back to us (by postal mail: Josephine Bauer, Palais des Nations, office B 559, 1211 Geneva, Switzerland or by e-mail: [josephine.bauer@unece.org](mailto:josephine.bauer@unece.org)) by 20.12.2002. Also comments about the synopsis in general and the methodology are very welcome. If you wish to get more information, please, do not hesitate to contact us (Tel.: +41-22-91 71637, e-mail: [volker.sasse@unece.org](mailto:volker.sasse@unece.org)).

Thank you very much for answering the questionnaire. It will provide valuable help for our future work.

Volker Sasse

European Forest Sector Outlook Studies (EFSOS)

## Questionnaire

### INQUIRY TO NATIONAL FOREST LEGISLATION EXPERT OF ..... (Country)

Name and status of the respondent: \_\_\_\_\_

Organisation: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

E-mail: \_\_\_\_\_ Tel: \_\_\_\_\_

#### 1. Do you consider the three legal issues, which were so far analysed, as significant from a European perspective?

a. obligatory reforestation\*

yes  no

Please, comment:.....  
.....  
.....

b. public access to forests\*

yes  no

Please, comment:.....  
.....  
.....

c. public use of non-wood forest products\*

yes  no

Please, comment:.....  
.....  
.....

#### 2. Which other legal issues/approaches would you consider as important and expect to be common among European countries? Please, provide your proposal for additional issues for the synopsis?

.....  
.....  
.....  
.....  
.....  
.....  
.....

\* see the explanations in the attached draft working paper (Annex I):

obligatory reforestation - page 5

public access to forests - page 12

public use of non-wood forest products - page 18

**3. Is the analysis in the draft working paper so far detailed and focused enough?**

a. obligatory reforestation

yes  no

Please, comment:.....  
.....  
.....

b. public access to forests

yes  no

Please, comment:.....  
.....  
.....

c. public use of non-wood forest products

yes  no

Please, comment:.....  
.....  
.....

**4. Is the legislation of your country analysed correctly in the draft working paper? Please, comment if laws, administrative rules etc. are analysed wrongly or something is missing.**

a. obligatory reforestation

yes  no

Please, comment:.....  
.....  
.....

b. public access to forests

yes  no

Please, comment:.....  
.....  
.....

c. public use of non-wood forest products

yes  no

Please, comment:.....  
.....  
.....

**5. If there are specific questions addressed to your country in the draft working paper in chapter 4.1., 4.2. and 4.3.(italic), please, comment on them:**

.....  
.....  
.....  
.....  
.....



### **Some facts about the Timber Committee**

The Timber Committee is a principal subsidiary body of the UNECE (United Nations Economic Commission for Europe) based in Geneva. It constitutes a forum for cooperation and consultation between member countries on forestry, forest industry and forest product matters. All countries of Europe; the former USSR; United States, of America, Canada and Israel are members of the UNECE and participate in its work.

The UNECE Timber Committee shall, within the context of sustainable development, provide member countries with the information and services needed for policy- and decision-making regarding their forest and forest industry sector ("the sector"), including the trade and use of forest products and, when appropriate, formulate recommendations addressed to member Governments and interested organizations. To this end, it shall:

1. With the active participation of member countries, undertake short-, medium- and long-term analyses of developments in, and having an impact on, the sector, including those offering possibilities for the facilitation of international trade and for enhancing the protection of the environment;
2. In support of these analyses, collect, store and disseminate statistics relating to the sector, and carry out activities to improve their quality and comparability;
3. Provide the framework for cooperation e.g. by organizing seminars, workshops and ad hoc meetings and setting up time-limited ad hoc groups, for the exchange of economic, environmental and technical information between governments and other institutions of member countries that is needed for the development and implementation of policies leading to the sustainable development of the sector and to the protection of the environment in their respective countries;
4. Carry out tasks identified by the UNECE or the Timber Committee as being of priority, including the facilitation of subregional cooperation and activities in support of the economies in transition of central and eastern Europe and of the countries of the region that are developing from an economic point of view;
5. It should also keep under review its structure and priorities and cooperate with other international and intergovernmental organizations active in the sector, and in particular with the FAO (Food and Agriculture Organization of the United Nations) and its European Forestry Commission and with the ILO (International Labour Organisation), in order to ensure complementarities and to avoid duplication, thereby optimizing the use of resources.

More information about the Committee's work may be obtained by writing to:

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Trade Development and Timber Division  
UN Economic Commission for Europe  
Palais des Nations  
CH - 1211 Geneva 10, Switzerland  
Fax: + 41 22 917 0041  
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## UNECE/FAO

### Publications

#### *Timber Bulletin\* Volume LVI (2003)*

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1. Forest Products Prices, 2000-2002 (web data release expected March 2004, hard copy expected May 2004).
2. Forest Products Statistics, 1998-2002 (database since 1964 on website, publication available on the web March 2004, hard copy expected April 2004).
3. Forest Products Annual Market Analysis, 2002-2004 (available on web, hard copy expected March 2004).
4. Forest Fire Statistics, 2000-2002 (web data release expected March 2004, hard copy available May 2004).
5. Forest Products Trade Flow Data, 2000-2001 (tables available on web, no hard copy available).
6. Forest Products Prospects for 2004 (available on web, hard copy expected February 2004).

*\*Timber Bulletin series is currently under review*

#### **Geneva Timber and Forest Study Papers**

Forest policies and institutions of Europe, 1998-2000	ECE/TIM/SP/19
Forest and Forest Products Country Profile: Russian Federation (Country profiles also exist on Albania, Armenia, Belarus, Bulgaria, former Czech and Slovak Federal Republic, Estonia, Georgia, Hungary, Lithuania, Poland, Romania, Republic of Moldova, Slovenia and Ukraine)	ECE/TIM/SP/18
Forest resources of Europe, CIS, North America, Australia, Japan and New Zealand	ECE/TIM/SP/17
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The Development Of European Forest Resources, 1950 To 2000: A Better Information Base	ECE/TIM/DP/31
Modelling and Projections of Forest Products Demand, Supply and Trade in Europe	ECE/TIM/DP/30
Employment Trends and Prospects in the European Forest Sector	ECE/TIM/DP/29
Forestry Cooperation with Countries in Transition	ECE/TIM/DP/28
Russian Federation Forest Sector Outlook Study	ECE/TIM/DP/27
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Markets for secondary processed wood products, 1990-2000	ECE/TIM/DP/21
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Forest certification update for the UNECE Region, summer 1999	ECE/TIM/DP/17
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## UNECE/FAO GENEVA TIMBER AND FOREST DISCUSSION PAPERS

The objective of the Discussion Papers is to make available to a wider audience work carried out, usually by national experts, in the course of UNECE/FAO activities. The Discussion Papers do not represent the final official outputs of particular activities but rather contributions, which because of their subject matter or quality, deserve to be disseminated more widely than to the restricted official circles from whose work they emerged. The Discussion Papers are also utilized when the subject matter is not suitable (e.g. because of technical content, narrow focus, specialized audience) for distribution in the UNECE/FAO Geneva *Timber and Forest Study Paper* series. Another objective of the Discussion Papers is to stimulate dialogue and contacts among specialists.

In all cases, the author(s) of the discussion papers are identified, and the papers are solely their responsibility. The designation employed and the presentation of material in this publication do not imply the expression of any opinion whatsoever on the part of the secretariat of the United Nations concerning the legal status of any country, territory, city or area, or of its authorities, or concerning the delimitation of its frontiers or boundaries. The UNECE Timber Committee, the FAO European Forestry Commission, the governments of the authors' country and the UNECE/FAO secretariat, are neither responsible for the opinions expressed, nor the facts presented, nor the conclusions and recommendations in the Discussion Paper.

In the interests of economy, Discussion Papers are issued in the original language only, with only minor language editing and final layout by the secretariat. They are distributed automatically to nominated forestry libraries and information centres in member countries. It is the intention to include this discussion paper on the Timber Committee website at: <http://www.unece.org/trade/timber>.

The Discussion Papers are available on request from the secretariat. Those interested in receiving them on the continuing basis should contact the secretariat as well. Your comments are most welcome and will be referred to the authors:

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## ***Forest Legislation in Europe: How 23 Countries Approach the Obligation to Reforest, Public Access and Use of Non-Wood Forest Products***

This report presents the results of an extra budgetary project which analyses similarities and common approaches in European national forest legislation. The forest laws of 23 countries have been examined in order to find out whether provisions are made to put into practice the following three legal issues: (1) reforestation obligations after logging through final cutting or loss of forest cover due to fire and natural calamities, (2) regulations concerning public access to forests and (3) public use of non-wood forest products occurring on forest land. All three legal issues are addressed by the analysed national legislation. In most countries legislation includes regulations for obligatory reforestation. Public access to forests is allowed in most of the analysed countries, although, forest owners have specific rights to limit such access. Limitations exist mainly with regard to nature protection in order to protect replanted or naturally regenerated forest stands. In most of the examined countries the public has usage rights to collect some non-wood forest products: Considerable variations between countries are to be found; the practise of such rights usually requires consent or authorisation from the forest owner; and many rights may be subject to regulation and specific restrictions.

### ***European Forest Sector Outlook Study (EFSOS)***

The European Forest Sector Outlook Studies (EFSOS) are the continuation of the UNECE/FAO European Timber Trends Studies dating back to the 1950s. EFSOS analyses the forest sector developments in the past, provides scenarios for the policy and market framework, and forecasts forest products markets and forest resources over the next twenty years for all European countries and the main CIS members. The primary objective of EFSOS is to improve the contribution of forestry land use to sustainable development in the region.

### ***UNECE Timber Committee and FAO European Forestry Commission***

Further information about forests and forest products, as well as information about the UNECE Timber Committee and the FAO European Forestry Commission is available on the website [www.unece.org/trade/timber](http://www.unece.org/trade/timber). Information about the UNECE may be found at [www.unece.org](http://www.unece.org) and information about FAO may be found at [www.fao.org](http://www.fao.org).

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