

## LEGAL TREATMENT IN THE MANAGEMENT OF FOREST RESOURCES

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**Abstract:** Forestry plays a significant role in both our country's and global economy. Any entity, in the present case, forest entity, must operate under specific legislation and its own status. In this respect, the conduct of activities within the entities should be based on appropriate national and/or international legislation that represents the base line in linking the entities' interests with the objective requirements of economy. Thus, in establishing a legal framework to correspond to activity development of each type of society, a variety of regulations have been drafted along with repealing or modifying others. Currently, economic legislation comprises a wide range of regulations which are projected on the ways in which activity is developed within the forest entities and not only. Regulations in force, besides highlighting the forest entities' interests, also include all precautions in the conduct of forestry activities in ungrounded ways and the emergence of some adverse events.

**Keywords:** forest entities, legal framework, legal status of operation

**JEL classification:** M40 – M: Business Administration and Business Economics; Marketing; Accounting, M40: General.

### 1. Introduction

Although economic activity is that performing production tools, consumer goods, works, services and even the social structure in which men live, all related actions shall comply with certain laws in force at the time. On the other hand, in the future there will survive only those people who will manage to accomplish additional needs based on a legal ground, using most effectively the resources included in the economic circuit and reducing, as far as possible, the consumption of limited resources to achieve the effects resulting from an economic and social action useful to a society. Thus, even in the field of forestry, whatever the choice, this implies both a gain and a waiver and streamlining economic activity requires the efficient meet of the needs in a continuous growing and diversifying with the limited resources available. "The chapters" they have started to interfere in are: management, conservation and restoration of forests, without neglecting the possibilities of intersecting national or global forest interests with local

populations' interests. The starting point in the orientation towards these directions has been considered the hypothesis that a healthy forest can not mean anything but a healthy society. Therefore, any simple or complex human activity, repeatable or unrepeatable complies with one or more specific laws.

## **2. Methodology and motivation research**

The scientific actions taken in developing this paper, are reinforced with scientific arguments based on the information gathered from literature, from regulations, various documents, international databases and other sources deemed relevant to the theme of research, using research methods as documentation, comparison, analysis, synthesis, methods of mediated collection of data found in presentation and dissemination documents, reports, studies, summaries, methods specific to positivism employment in terms of epistemological positioning. It is worth mentioning the fact that it is difficult to address all the issues related to research theme, limitations due to certain barriers encountered during the research such as practical documentation difficulties encountered in some national forest entities or in other states. The motivation for studying this matter is determined by several factors, including: the observation that society as a whole needs a "healthy" forest system in all aspects - economic, legal, etc., idea generalized in most countries, elements of personal, cultural nature, etc. In seeking to clarify the motivation elements, it may be mentioned that the problems that Romanian economy is currently facing start from the share of the entire national economy, continue with the problem of forest profitability, the problem of legal framework which is sometimes incoherent, establishing the forestry operation regime and the forest entities status, as well as incorporating sustainable development in forestry and regional and global development strategies.

## **3. Forest entities' legal status of operation**

Performing an activity in a field of activity or another, requires full knowledge of the legislation in force, the regulations on every undertaken action, knowing the legal framework for establishing the entities having a significant contribution. The legal framework of forest entities operation is a complex concept comprising three basic components: the system of laws to which the forest entity in question relates, the legal framework by which home market is correlated with external markets, and all the institutions responsible for establishing the framework in which the entity may conduct its activity. In Romania, in accordance with existing legislation, the following legal forms can be chosen, each with its own features, advantages and disadvantages: PFA, AF, RA, OC or SC, but the legal form that can be identified with forest entities in our country, up to present, is the autonomous type.

If we analyze the entities type situation by legal status registered in the Trade Register in Romania during the period prior to the infiltration of economical- financial crisis in global economy, so before 2006, the situation may be presented schematically as follows:

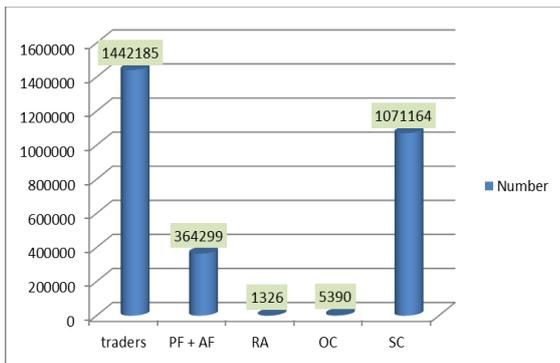


Figure 1. Fragmentation of the number of entities registered with the Trade Register in Romania between 1990-2006.

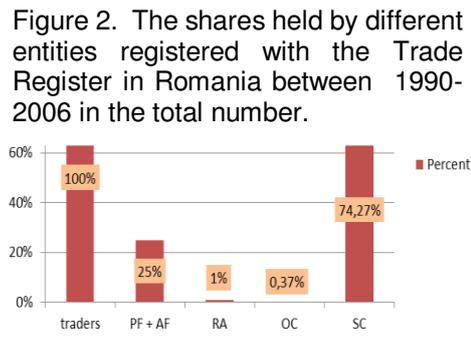


Figure 2. The shares held by different entities registered with the Trade Register in Romania between 1990-2006 in the total number.

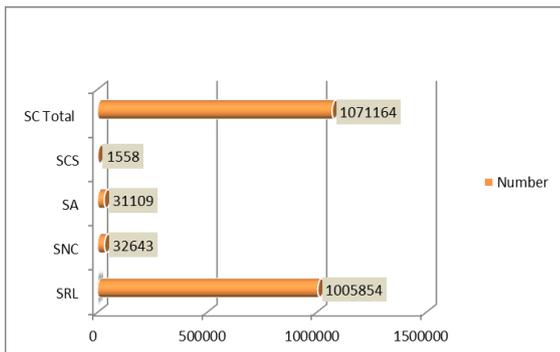


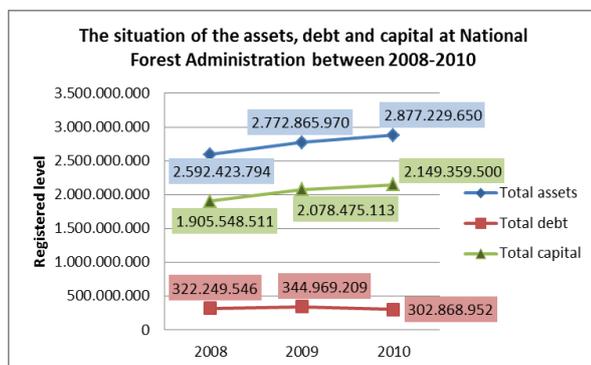
Figure 3. Segmentation of the number of trading companies registered with the Trade Register in Romania between 1990-2006, on constituent parts.

The source for figures. 1.- 3.: processing data "Statistical Summary - Operations in the Central Trading Register", drafted by the National Trade Register Office, Bucharest, data taken from the Process of setting up business in Romania, Radu Vasilica accessed on <http://steconomice.uoradea.ro/anale/volume/2006/management-si-marketing/40.pdf>, 07.12.2011.

From the above figures, we can see that entities registered with the Trade Register (CR) in Romania prior to the installation of economical-financial crisis, with the largest share are the trading companies, the most of them being the SRL, while at the first sight, the number of autonomous administrations has no significant importance and no outstanding contribution among all the entities in Romania. Nevertheless, the autonomous administrations in Romania have a special importance due to the size of the heritage that they own/manage.

Trying to analyze the situation of entities between 2006 - 2010, we can see that in time, the situation evolution is not regular but rather a sinusoidal evolution, meaning that since 2008 - the year when the global financial and economic crisis started, in Romania, the number of trading companies has dropped because of two aspects: exclusion of some companies due to their inability to withstand market conditions during the difficult period of crisis and then due to investors' lack of confidence in Romanian economy that would have determined other companies

registered at CR; this is the reason why we considered as more relevant the analysis of the number of entities by legal categories in consecutive and similar periods of time in terms of national/international/global economic and financial conditions. Continuing this analysis for forest entities, it may be noted that although their number does not have the same irregular fluctuations, problems that manifest in this area are still sensitive and significant, requiring constant research to find relevant solutions in different situations. Specifically, in an attempt to synthesize and study the size of forest heritage managed by National Forest Administration as a whole and, turning our attention only on the assets, debt and capital, the situation could be outlined as follows:



**Figure 4.** The situation of assets, debt and capital at NFA between 2008 - 2010  
Source: processing the data from the financial statements of the National Forest Administration for the three financial years

From the data in the figure above, it appears that behind the figures recorded there is the extremely complex task of the National Forest Administration (NFA) to manage assets effectively and sustainably, to monitor and analyze the situation of debt exigibility, so that from both economical and especially social point of view, the overall situation of the heritage managed by the NFA to be improved, benefited and increased. Therefore, although from Figure 1. and Figure 2., it initially seems that we can draw only the idea that autonomous administrations are few in number or percentage of total entities in Romania, this can be completed by the observation that, in what the heritage owned or managed by autonomous administrations is concerned, the situation is not so simple, but they, by cumulation record high values of significant heritage categories such as assets, debt and total capital.

Thus, directing our attention towards the specific of forest entities, it is worth mentioning some aspects related to current organization of the Department of Forests. In this regard, we note that after December 2000, according to the organizational structure provided by the previous Government, the Forest Department was transferred from the former Ministry of Water, Forests and Environmental Protection (MWFEP) to the Ministry of Agriculture, Food and Forestry (MAFF) by Governmental Decision no. 12/4.01.2001 on the structure and organization of the Ministry of Agriculture, Food and Forestry and also on its functioning method. Subsequently, following another Governmental Decision, the Ministry of Agriculture, Food and Forestry has been transformed into the Ministry of

Agriculture, Forestry and Rural Development (MAFRD), involving then other organizational changes.

Taking forest entities' legal status of operation into account, it may be noticed that in Romania they employ their activity in relation to respecting the specific of autonomous administrations according to Law no.15/1990, with subsequent amendments and completions including issues on the treatment of economic entities, owned by the state and exercising the role/function as autonomous administrations or trading companies. According to the legislative act mentioned, in our country autonomous administrations are organized and work in various areas of strategic branches of national economy set by government. These autonomous administrations are formed and operate, perform the tasks/roles for which they were established, based on economic management, so that they have the responsibility to manage all the goods/material resources and/or money, operating on financial autonomy principle or basis, having the possibility to be set up by government decision for those of national importance, or by decisions adopted by the county councils or by municipal bodies from the state administration, in case of local interest, from the branches and areas outlined by the government.

The same law provides that when establishing an autonomous administration, the business, assets, name and head office will also be established, enabling the foundation in this structure of other subunits needed for achieving the business object. The entry of real estate owned by autonomous administration, owned by third parties by official transfer of ownership, or conclusion of agreements/transactions for situations that need to be solved in a trial by the courts of law or of some litigations having a value size of more than 10 million lei is made with the approval of the competent ministry.

Specifically, in MAFRD, according to Governmental Decision no. 229/2009 on reorganization of the National Forest Administration – Romsilva and approval of the organization and operation regulations, forest management will be the responsibility of National Forest Administration, currently consisting of a number of 41 Forestry Departments plus research-development Resort for fur animal breeding in Târgu-Mureş. National Forest Administration - Romsilva is autonomous administration of national interest under state authority, by the central public authority responsible for forestry and application of national strategy in the field of forestry being its business object, acting to preserve, protect and develop forests – management of game, of fish in mountain waters and superior capitalization of other forest products. In the structure of the National Forest Administration there are territorial units without legal personality - forestry departments and research-development Resort for fur animal breeding in Târgu-Mureş - and units with legal personality such as: F.R.M.P.I. Bucharest (Forest Research and Management Planning Institute), etc. National Forest Administration is dependent on self financing and should cover all its expenses from income, including those from investment, afforestation etc. Romanian forest fund is about 27% of the country with a total area of 6.5 million ha, of which 3.4 million ha is public property, and from the area of 6.3 million ha covered with forest, only 3, 3 million ha is public property. Forest area is 0.27 ha/capita, a figure located below the average of European continent of 0.30 ha/capita.

On the other hand, Law no.15/1990 stipulates that an autonomous administration develops annually the three financial basic elements: the income and expenditure budget, the balance sheet, profit and loss account, plus other components of financial statements and even other financial overviews if this is the case, drawn up

according to the forms or models specified by the Ministry of Finance. It is worth mentioning that the balance sheet and profit and loss account of the autonomous administration are handed to the Ministry of Finance, or, where appropriate, to local financial departments in the jurisdiction of which the headquarter in question is situated, in order to be endorsed. Talking about the same financial items, it may be reminded that the balance sheet and the profit and loss account of the autonomous administration established on a national scale/level should be drawn up, displayed and published in the Official Gazette of Romania, Part III, issues which the autonomous administrations of local importance are not exempt from, noting that in this case their publication and printing will be done/found in the local press. Also, to find funds that provide financing potential losses/deficits or their covering, the autonomous administrations can "enjoy" the grants provided from the state budget or local budgets as subsidies, if the funds anticipated/provided in these budgets offer the solution, or can turn to loans/bank credits. An issue that can not be overlooked by the autonomous administrations in receiving state subsidies is that they must be used exclusively in meeting the purposes they were given/granted, without any deviation in this regard.

Throughout the legislative act, references to receipts and payments operations carried out by the autonomous administrations can be found, establishing the management board, the obligations of its members, term of office, etc. It should be noted that annually, in the first month of a new financial year, the management board give notice to the related ministry or regional/local territorial administration of a synthesis run by that administration during the previous year and an estimating report about the activities that are expected to be conducted in the current financial year. This report submitted by the NFA is laborious, including detailed references on all significant aspects of the administration related to the previous year or the current one.

On the other hand, in Romania, a special case is that of private forest districts which, up to this moment are either subordinated to Local Councils or belonging to monasteries. Thus, forest districts subordinated to Local Councils, as a legal form, are still autonomous administrations which manage the public forest fund given to that local community and monasteries forest heritage, in most cases, is given to be managed by some forest districts subordinated to the National Forest Administration or by other private forest districts subordinated by the Local Councils, and in few cases, monasteries have established a private forest district. Although the establishment of these private districts is relatively recent, it appears that most specialists in forestry and environment, technicians, officials of the Romanian Government, research centers, NGOs, as is the case Ecopolis Center for Sustainable Policies (<http://www.universulpadurii.ro/index.php?article&sid = 27097>, accessed on 27.04.2012), concluded that the situation did not follow the course desired by those who decided upon this procedure, but just the opposite, illegal deforestation is more extended in recent private forest districts, even if at national level, by now there is no percentage or value level of illegal deforestation on the Romanian territory, there are only approximate percentage situations carried out in the county or region where there was a correlation between forest area and deforestation made both in private forest districts and in the forest districts subordinated to the National Forest Administration. For this reason, at present, as shown in the studies of Ecopolis Center for Sustainable Policies, many practitioners who have in sight the concept of sustainable development, consider as a basic

necessity a rethinking of forest regime, especially organizational and less likely as a legal form. A possible solution would be picturing a way to organize the forest districts subordinated to the National Forest Administration in regions (as is the case with universities in Romania to achieve the requirements and provisions of Law No. 1 of 2011 - National Education Law, No. 1 of 2011, published in Official Gazette, Part I, no. 18 of 10 January 2011 - which renders the essential even in the content of the principles on which the national education system is based on, according to art. 118 of the law) and the search for solutions to assimilate private current forest districts, so that the most effective strategies as long-term effects can be better planned, implemented and then reviewed in an area with many implications in social life as the field of forestry, all based on the idea that "many hands make light work and the effect still increases".

Trying to synthesize the legal organization of forest entities in other states, to achieve a spatial analysis of these entities, we can notice that there are many similarities between the treatment of forest entities in our country and those of other EU countries, USA, etc.

For example, in Germany, the State Forestry Administration is subordinated to the Ministry of Food, Agriculture and Forestry and has one administration for each province/region. For example, in Bavaria region the Administration is responsible for all aspects of forest in Bavaria. Such an administration conducts a dialog with the landowners, citizens and social groups of interest to determine interests and appropriate solutions for sustainable development policies of the forestry sector; somewhat similar to the forests given to be managed by the National Forest Administration or by other private forests districts subordinated to Local Councils from our country. Wood industry in Bavaria region involves a work force of 156.000 people, and the number of employees in the timber trade can be calculated according to the statistics of Federal Employment Agency, estimated at 10.000 employees. As happened in our country, the global economic crisis has affected the forestry sector and wood inclusive, which have not remained immune, resulting in less number of employees in this area with more than 10.000 people since 2006.

In Finland, the forest fund is owned by the state and managed by the Finnish National Forest Administration, otherwise, similar situation to the Romanian forest fund. In this state, forests owned by families and individuals are transmitted from generation to generation by inheritance, reason for which the Finns generally use the term of "forest family". Finnish state owns 34% of forest land, private industry owns 8% and other bodies 5%. Basically, state forests are located in the north of Finland, and 45% of them are under strict protection. Usually, the Finnish lumber stations are small and the number of lumber stations larger than 2ha is about 440.000, while the number of those over 20 ha is 26.000. The share of the lumber stations of over 100 hectares is only 9%. The number of forest owners in this country reaches 900.000, representing about one fifth of the population. About half of the lumber stations were acquired by inheritance and a private forest changes its owners, on average, every 23 years. The forest sector in Finland generates about 5.5% of Finnish GDP – while in our country agriculture, forestry and fishing all together barely manage to be about this value - and a fifth of Finland's export revenues are derived from forest industries. In the U.S., in 1905, the Forest Service was founded, which is an Agriculture Department agency that manages public lands consisting of national forests and

grasslands, the federal agency having four levels of organization:

a) Ranger District. There are more than 600 Ranger districts, each district with a staff of 10 to 100 people. Districts vary in size from 50.000 acres (20.000 hectares), to more than 1 million acres (400.000 hectares). It should be noted that in Romania, in forestry practice, there can be also found the term of district which corresponds to the surface covered by a ranger, respectively to the forest funds which are the responsibility of the subordinated foresters.

b) National Forest Administration, which is found in 44 states to manage a number of 155 national forests and 20 grasslands. Each such forest is composed of several Ranger Districts and the person responsible for a national forest is called the forest supervisor – somewhat the counterpart of the Ranger in our country. This level coordinates activities between districts, allocates the budget and provides technical support for each district.

c) Region: There are 9 regions, numbered 1 to 10, with the provision that Region 7 was eliminated some years ago. Regions are usually large geographical areas, including even more states and the person responsible is called regional forester – somehow the counterpart of the regional forester = Ranger from us, but there is no similarity in terms of covered area.

d) At national level, this is known as the Washington Office. The person who oversees the entire Forest Service is called chief, being a federal employee working with the President Administration to develop a budget to submit it to the Congress, during the Congress also providing information on what was done and even monitoring the activities of the Agency.

If you consider the "forest system" in Canada, Forest Service is a department of the Canadian Government to shape the natural resource contributions to the overall country economy, in society and on the environment. During more than a century, the Forest Service has conducted research on the health of forests in Canada with the purpose to ensure that forest sector needs are met, and also the satisfaction of economic, social and/or cultural needs of the future generations are not compromised. Forest lands in Canada, other wooded lands and other lands with trees stretch for about half the country's lands, reaching an area of nearly 400 million hectares. Canadian Forest Service works with the provinces and the territories to ensure that the nation's resources are managed sustainably and in a way that optimizes benefits for all. Forest industry in Canada has approximately 600.000 people and the Canadian forest products range from raw materials, logs, lumber, structural panels, softwood, cellulose and paper to an increasing series of bioproducts including mushrooms, plant extracts, resins. Canada is the third supplier of forest products in the world after Germany and the United States of America. One thing worth noticed is the unquestionable importance that the Canadian state allocates both to research in general and research within the field of forestry, chapter in which the Romanian state is still lacking both in research in general and the situation of research activity in forestry, although the scientific literature frequently reminds of the hypothesis/principle that a nation cannot evolve/progress economically, socially, etc. without being based on well-founded and developed research.

If the spatial analysis of the organization and functioning of forest entities will be spread over several countries, continents, it will be seen that can be identified both similarities and specific features of each area, features that will leave a significant mark on the efficiency of forest activity in each country. Overall, however, it appears

that following the review of the functioning and organization of forest entities of the states above, we may conclude:

Table no. 1. Identifying common and differentiated elements of organization and functioning of forest entities in the analyzed countries

Analyzed country <ul style="list-style-type: none"> <li>• Romania;</li> <li>• Germany</li> <li>• Finland;</li> <li>• U.S.A.;</li> <li>• Canada.</li> </ul>	Common elements
	a common element of all countries is the basic principle of legal functioning and organization, plus the management element: the forest
	Differentiated elements
	one of the elements that differentiates the analyzed countries is the area an organization form lies on, respectively the forest fund area managed by it.

Source: synthesis by the author after studying the organization and legal functioning of forest entities of the analyzed in the text above.

In an attempt to outline the above issues relating to "Legal treatments in forest resource management", there have been found similarities and differences even regarding the definition of "forest" – component part of the forest fund with the land meant for afforestation, ponds, etc.. In the world, the forest is currently defined as "an area of more than 0.5 ha covered by trees of more than 5m in height and consistency of at least 0.1 or trees which are able to reach these limits in normal circumstances" (after World Forest Resource Assessment, 2005 of IUFRO, 2005). In Romania, according to the Forest Code are considered forests "the lands with an area of at least 0.25 ha, covered with trees, which provides a consistency of at least 0.1; trees must reach a minimum height of 5m at maturity, in normal growing season conditions. " Another aspect found during research is that the European Union has defined a community strategy to include the issue of environment in economic policy using different instruments as the market mechanism, Member States reporting annually to EU Commission economic policies developed in this respect (Peter Condrea, Ionel Bostan, 2008).

#### 4. Conclusions and research perspectives

Therefore, it may be stated that all rules governing the rights and obligations of forest entities will involve outlining all specific legal attributes of these economic units which will reflect the effects on the performed activity and on performance resulting from undertaken activity. Thus, all involved in one way or another in the activity of Romanian forest entities should make every effort, ability, means they have or they can draw to achieve the goals that were established at the time of their establishment, the more so as there is the example of other states that have managed to own an effective and sustainable 'forest system'. Tributary to what has been mentioned, the great Romanian forester, Dracea Marin, said that "Forests are primarily earth peace, agriculture shield and good work guarantee of that time and, as such, one of the reasons for the existence of the Romanian people". The integrity of the forest system is given by all flows of information, money, raw materials etc. existing between the forests cultivation system, exploitation, industrialization and final consumers, integrity that will only be maintained through a close relationship of these components. Regarding the organization of state economic entities in the forest filed as autonomous administrations and not as trading companies, they are

given, among others, the possibility to receive grants from the state budget or local budgets in case of deadlock situations, within the funds limit provided in their budgets and which may be used only to overcome the moments for which they were received, as also required in art. 9 of Law No. 15/1990. On the other hand, some differences between the autonomous administrations, trading companies and public institutions could be: non-profit organization, do not produce any benefit; public revenues consist of taxes and fees plus other income set by law, while those of autonomous administrations and trading companies come from performed work, rendered services and other activities, documents related to conducting business are differentiated according to the specific of each type of entity, existing some general similarities regarding the information carriers, what in future could determine a basis for the development of a research paper on the advantages and disadvantages of the entities of autonomous administration type that could be considered or placed in the sphere of some "pearls of the economy" or by the "black holes" of the economy.

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