

NEW AMENDMENTS TO ROMANIAN FORESTRY REGULATIONS

After lengthy debate, on 10 June 2015, law no. 133 amending the Romanian Forestry Code was published in the Official Gazette ("**Law no. 133**"). Certain of the principal amendments introduced by Law no. 133 are analyzed below.

(i) *Amendments Related to the Forest Fund*

Law no. 133 provides that a forest management plan¹ is required only for forests which are larger than 10 hectares. This changes the previous regulation, which required a management plan for all forest lands, irrespective of surface area. This amendment has raised concerns since it could allow for intensive and irrational harvesting of forests having a surface area of less than 10 hectares, (which forests are quite numerous in Romania as a result of the post-Communist property restitution process). Other amendments introduced by Law no. 133 refer to the definitive and temporary removal of lands from the forestry fund. Specifically, Law no. 133 slightly changes and clarifies those rules related to such removal. Thus, it is possible to remove from the forestry fund, *inter alia*, the forest lands related to any constructions sold by Romsilva to various entities and the forest lands that are to be used for renewable or conventional energy projects, recreational, thematic or educational parks, hydro-technical or fishing constructions or the exploitation of various mineral resources. Forest land that may be removed for houses or holiday resorts is limited to 250 sq. m. for lands have a surface area of greater than 5 hectares and to only 5% of the total surface area of the forest property, and a maximum of 200 square meters for properties smaller than 5 hectares.

The party removing the land from the forestry fund must compensate for the removed forest land with other land that must be (i) located outside the forestry fund but within its neighboring area (except for compact lands with more than 20 hectares); and (ii) fit for forestation. Such land should have at least: (i) five times the value; and (ii) three times the surface area of the removed forest land. However, for the removal of forest land of less than 50 sq. m., the beneficiary must pay an amount equal to five times the value of the removed forest land, no other land being necessary as compensation.

(ii) *Harvesting of Forestry Resources*

According to Law no. 133, the harvesting of forest wood must observe several principles, including: (i) an entity/group of entities cannot purchase or exploit more than 30% of the raw materials from a forest land established as an average of the preceding three (3)

¹ The forest management plan regulates the management of forest land, including requirements governing harvesting and replanting of timber.

years; (ii) furniture producers have a pre-emption right for purchasing wood; (iii) an entity/group of entities can purchase raw materials in the form of round timber only if such entity ensures the processing of 40% of these raw materials.

(iii) *Amendments Concerning the Forest Districts*

Law no. 133 confirms practice by expressly stipulating that a private forest district may function either similar to NGOs (associations and foundations), as currently regulated, or similar to companies. In addition, as a protective measure for the forest districts, Law no. 133 expressly states that a management contract represents an enforcement title for the payment of fees due by the owner of the forest land.

Law no. 133 also clarifies the manner in which forest districts should organise their activity by expressly stipulating that a forest district should manage or ensure forestry services only to those forests located within the county limits of its headquarters or in contiguous counties. There is an exception to this general rule for those owners that also have forest lands in other counties besides the one in which the forest district has its headquarters.

There are also new requirements imposed upon the forestry personnel (e.g. the head of the forest district should have a labour contract for an indefinite period of time) and the failure to observe these requirements may be sanctioned by the withdrawal of the functioning permit.

(iv) *Other amendments*

Public forest lands occupied by functional constructions built prior to 1990 (other than electric or gas facilities) may be subject to concession contracts concluded for a maximum period of 49 years. Unfortunately, Law no. 133 fails to specifically regulate the concession procedure to be undertaken by the public authorities in such a case.

Those forest lands included in 1st functional group² within the forest management plans are no longer exempt from taxes and fees. Such exemption will only apply to (i) forests for which no harvesting is regulated; (ii) certified forests; or (iii) forests younger than 20 years.

² Forest lands are divided in two functional groups. The 1st functional group includes: (i) forest lands with a special function for the protection of water, soil, climate and sights of national interest, (ii) forests for recreation, (iii) forests with a role in the eco-fund protection and (iv) forests included in the national protected areas.

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