

R E P O R T
(draft)
on the
NATIONAL SEMINAR
**“Improvement of the Legal Framework for Sustainable Management
of Communal Forests and Pastures in Albania”**

1 Background

The Ministry of Environment, Forest and Water Administration and the National Association of Communal Forests and Pastures with SNV, SIDA and World Bank support has organized at Hotel Tirana International a two day seminar in 12-13 March 2008 on “*Improvement of the Legal Framework for Sustainable Management of Communal Forests and Pastures in Albania*”

The seminar aimed to facilitate an open and constructive dialogue between key stakeholders in Albania on the legal framework that is related with management of natural resources (forests, pastures, etc.) in ownership/use of Local Government Units (LGUs), family/village groups, or individuals, and to discuss necessary improvements of related laws and bylaws. The seminar aimed also to assess the gaps and ambiguities of the actual legal framework and to make clear proposals on the improvement of the existing legislation.

The two primary objectives of the seminar were:

- i) Exchange knowledge and viewpoints among participants on policies and legislation and identify gaps and ambiguities of the actual legal framework on natural resource management (in ownership/use) by LGUs, Community Based Organizations or individual persons, with a specific focus on forest and pasture lands.
- ii) Propose necessary improvements of the existing legal framework to enhance tenure security and property rights in forest and pasture land in ownership/use of LGUs, Community Based Organizations or individual persons, and to spread and enhance rights to profit or benefit from the use of pasture or forestry resources, aiming at their sustainable management and income generation.

For the overall guidance in the preparation and implementation of the Seminar, co-ordination of contributes of different institutions, approval of seminar agenda, etc., was established a Steering Committee with the following participation:

1. Mr. Taulant Bino, Ministry of Environment, Forest and Water Administration,
2. Mrs. Drita Dade, World Bank,
3. Mr. Peter Troste, SIDA,
4. Mr. Jack Cortenraad SNV Albania,
5. Mr. Thimaq Lako, National Association of Communal Forest and Pastures

The National Association of Communal Forest and Pasture (NACFP) provided the organizational support for the preparation and implementation of the National Seminar, “Improvement of the Legal Framework for Sustainable Management of Communal Forests and Pastures in Albania”.

2 Seminar proceedings

2.1 Prior to the seminar

A key factor for a continuous success in the establishment of the communal forestry in Albania is a clear and complete legal framework, which allows and supports all the activities that are related to the sustainable management of the communal forests and pastures, including: property rights and the right of use; the management and exploitation of the communal forest and pasture resources; the processing and sale of products and the marketing of products, services; fines and tax collection; the administration and reinvestment of public and private funds in this sector. A number of legal and sub-legal provisions issued after the 90's, have made possible the transfer of the communal forests and pastures in communal use.

The transfer process has started in 1996, under the leadership of the GDFP in collaboration with the local government units and the forest service in the districts, and with the technical and financial support of the WB/FP and APFDP financed by the USAID. At present, NRDP, SNV, and other international organizations continue to support this process. In the Directorate of Forest and Pasture Policies of the MEFWA, a Sector of Communal Forests is already functioning.

Aiming at supporting Albania for good governance and the reduction of poverty, SNV has been involved since 1999 in the organization of the activities related to the communal forests, at different levels of engagement and in cooperation with different local or international actors. One of these actors is the National Association of the Communal Forests and Pastures (NACFP), which represents a wide network of the Communal Forests and Pastures Users Associations and their Regional Federations.

Despite all the achievements in the transfer process of the communal forests and pastures, the concern of the above mentioned actors is mainly related to the existing legal framework, which is not clear and complete, and does not offer the legal guarantees, especially for the local users of the forests and pastures. Moreover, the recent instructions of the Prime Minister of Albania have been to accelerate the process of transfer and that this is completed within the first half of 2008. For this, MEFWA has prepared a program with the measures to be taken for the implementation of these instructions.

In order to have a clearer view of the problems and to offer their support in this important process, SNV and NACFP hired a consultant, to conduct a detailed analysis of the existing legal framework and its impact on the communal forestry practices in Albania.

The objectives of the analysis of the legal framework on the communal forests and pastures in Albania were:

- 1) The conduct of a full inventory and the analysis of the laws, decisions and regulations that affect the sustainable management of the communal forests and pastures, in all their aspects:
 - the property rights and the rights of use;
 - the rights and responsibilities of the management, exploitation and protection of the forests and pastures;
 - the rights of processing and sale of products and the marketing of products, services, etc., (economic and commercial rights);
 - the rights of penalty and tax collection, and for the administration and re-investment of public and private funds in this sector (fiscal and administrative rights);

- 2) Identification of the shortcomings in the above mentioned specific acts and regulations, the overlapping, conflicts or gaps in them, especially those that affect the interests of the local users of the forests (and their organizational structures);
- 3) Proposals for the improvements and the solution of the identified problems.

The “Analysis of the legal framework on the communal forests and pastures in Albania” was enabled through the support of the SNV-SIDA project 7300060801 “Strengthening Sustainable Communal Forestry - Promotion of Economic Development through Capacity Building in Farmer Based Forest Management”.

The program of the seminar (annex A) has been focused in two main elements:

- i) A series of key notes delivered by invited speakers, addressing important elements of the policy and legal framework of communal forests and pastures management in Albania, analyzed from different angles.
- ii) Group discussions, organized around specific topics that are identified in the “Analysis of the legal framework on the communal forests and pastures in Albania” report as the key components for sustainable management of communal forests and pastures and related legislation.

In the Seminar participated 84 people (see the full list of participants in annex B), among them were representatives of central legislative and government institutes, supporting international organizations, as well as local government units, civil society organizations, private sector, research institutes, etc.,. Also in the seminar were present observers from neighboring countries (Kosovo and Macedonia) and one representative from Confederation of European Forest Owners.

2.2 Seminar activities

The National Seminar “Improvement of the Legal Framework for Sustainable Management of Communal Forests and Pastures in Albania” was opened on the 12 March 2008, attended by more than 80 participants.

The seminar was opened by Mr. Thimaq Lako, NACFPA, who welcomed the Minister of MEFWA, Mr. Lufter Xhuveli, the Parliamentary Members Mr. Rexhep Uka, Mr. Idriz Xhomara, Mr. Petrit Gjoni, the representatives of WB, SIDA and SNV donors, the representatives from Kosovo and Macedonia, the representative of Confederation of European Forest Owners, as well as all the Albanian participants.

On behalf of the Ministry of Environment Forest and Water Administration (MEFWA), the workshop participants were welcomed by the Minister, Prof. Dr. Lufter Xhuveli (see annex A for the seminar programme). The Minister underlined the importance of the forest and pasture transfer under the ownership or use of Local Government Units and the leading role of the Ministry during the process. The MEFWA, in the frame of the improvement and implementation of forest policies, has considered the legal framework as one of the most important instruments for the forest and pasture transfer to LGUs. During two last years, in the process of the preparation of legal provision, the Ministry has involved actively of all key stakeholders that either affect or are affected by the legal framework on communal forest and pasture management in Albania. In this consulting process with all interested stakeholders The Ministry of Environment appreciates the Forest User Association, the Regional federations and NACFPA contributes, as well as the contribute of the donors like World Bank, SIDA, SNV, etc.

In this context MEFWA evaluates that the today National Seminar “Improvement of the Legal Framework for Sustainable Management of Communal Forests and Pastures in Albania” is a

very important event. The decentralization of forest and pasture resource management is one of the most important orientation of the “Forest and Pasture Strategy” for the sustainable management of natural resources. Within the last five months the Ministry has hastened the transfer of the state forest and pastures towards the local government. MEFWA in close collaboration with the Ministry of Interior are working hardly for the preparation of the legal provisions for the transfer of state forest and pastures to LGUs.

The findings and the recommendations of the seminar will clarify and address better the issues related with the improvement of the legal framework on sustainable management of communal forest and pastures and the Ministry will pay a special attention to include them in the MEFWA working program.

From the SNV Albania, participants were greeted and welcomed by Mr. Jack Cortenraad, Director SNV Albania, who expresses the appreciation and happiness for the organization of this seminar. Mr. Cortenraad mentioned that SNV has been working in Forestry since 1999, first in the Albanian Forestry Project, based in Diber and since 2005 expanding to other regions. Today the National Rural Development Project (NRDP), funded by the World Bank and SIDA and supported by SNV, covers all 12 regions in Albania. The NRDP strengthens the capacities of all players in communal forestry and aims to ensure that Albania's forests and pastures are managed in a beneficial and sustainable way; complying with the National Policies and in the future in compliance with the expectations of the European Union.

In partnership with the Ministry, the Forest User Associations, SIDA and the World Bank, SNV Albania was able to develop the capacities of many Forest User associations. These associations are now playing a crucial role in the rural areas. In 2007 alone these associations delivered 1080 training in 1080 villages in 120 communes. These associations are now able to play their role in the innovation of communal forest and in income generation through the sustainable use of communal forest and pasture lands.

Mr. Cortenraad stressed the importance of a clear and facilitating regulatory and legal framework emerged. The subject of today's and tomorrow's National Seminar “Improvement of the Legal Framework for Sustainable Management of Communal Forests and Pastures in Albania” is important for income generation and rural economic development in many parts of Albania, especially in the rural areas - in the areas where many poor people live.

Mr. Taulant BINO, Deputy Minister of MEFWA, presented the Ministry strategy for the implementation of the Government program on the transfer of state forest and pastures in ownership/use to LGU. Mr. Bino highlighted the active role of the Ministry for the implementation of the strategy for the development of the forest and pasture sector in Albania and institutional reform, approved by Council of Ministers on 23.4.2004. Meantime the attention of the Ministry during 2007 has been focused on the improvement of legal framework related with forest, pastures and medicinal plants.

The MEFWA consider highly important the implementation of the Natural Resources Development Project (NRDP) as a crucial part for the implementation of reforms in the field of decentralization and the prosperity of rural areas. For this purpose and in the compliance with continuous demands of the World Bank and SIDA, the Government of Albania has undertaken a set of measures that will speed up the process of transfer of use/ownership rights of forest and pastures to the Communes.

For the achievement of the Government objectives the MEFWA prepared an action plan for the implementation of the strategy for the transfer of state forest and pastures in ownership or use to communes and their sustainable management. The above action plan was developed based on the Albanian Government strategy and ordering of the Prime Minister on hastening of the forest and pasture transfer process to local government units. The approval of the Action Plan for the implementation of the Strategy for the transfer and sustainable management of forests and pastures in use or ownership to communes is done by the Minister of MEFWA through a decision of 29 October 2007.

The main objectives of the MEFWA strategy for the transfer of forests and pastures to the LGUs are as follows:

- Expanding and accelerating the government's agenda for giving in use/ownership of forests and pastures of the communes in order to achieve the goal for the transfer of communal forests and pastures within the first half of 2008, to all the communes of the country;
- In line with the pieces of legislation on forests, pastures, hunting and medicinal plants, the objective would be to prepare by-laws for utilization of communal forests and pastures by the communes;
- To introduce a system, and then further strengthen and simplify the process for the transfer of forests and pastures from the state to the communes;
- To re-design the Extension Service and put it under the Ministry of Environment, Forestry and Water Administration in order to guide the role of the foresters in the management and protection of the forests;
- To encourage the LGUs in establishing the local structures (land management offices) and appointing the staff for the management of communal forests and pastures.

A joint working group of the Ministry of Environment, Forests and Water Administration and of the National Agency for the Transfer of Immovable Properties of the Ministry of Interior has started to coordinate the agenda for the program implementation envisaged in the said action plan.

The MEFWA and the DFS, in cooperation with the Agency for Environment and Forestry (AEF), as well as the NRDP, according to the time frame which is an integral part of the action plan, will work closely with the commune administrations and the Communal Forests and Pastures User Associations in order to clearly define the forest and pasture lots that will be transferred to the LGUs.

The forest service of Albania will now play the role of the extension service, namely to provide advise to the LGUs and forest user for a fast and better coordinated transfer of forests and pastures. In order to promote and better organize this extension service, a working group is established chaired by the Deputy Minister of Environment, Forest and Water Administration. The working group has drafted the recommendations and the work program to this end. For personnel training in terms of extension services at the LGU level, there will be a process for the identification of the said personnel, an assessment of the training needs, and a training program will be prepared and implemented, supported by the NRDP.

Mrs. Dhurata Çupi, Director of the National Agency for the Transfer of Immovable Properties of the Ministry of Interior, presented the process for the implementation of the strategy for the state property transfer to LGU, focused more on the context, and methodology used. The Ministry of Interior is still working for the implementation of the strategy for the decentralization of the local government and in this frame the decentralization of the forest and pasture management is in the same line with the Ministry of Interior strategy.

The Ministry of Interior, in close collaboration with the MEFWA, is working for the implementation of the strategy for the transfer of state forest and pastures in ownership or use to communes. The National Agency for the Transfer of Immovable Properties, in close collaboration with SNV and NRDP has conducted several regional workshops with participation of representatives of communes and Forest Service to clarify the procedures for the transfer of state forest and pastures.

The legal framework for the transfer of the transfer of forest and pastures in use/ownership to the Communes is completed since 2006 with the Decision of the Council of Ministers No. 396, date 21.6.2006, "On the criteria of the transfer and use of forests by the local government units".

At the end, Mrs. Çupi, mentioned that the political will to speed up the process of transfer of use/ownership rights of forest and pastures to the Communes must be associated in the same time with the information and awareness of the local government units.

Mr. Rexhep Uka, Member of Parliament, welcomed the participants and presented the activities of the Parliamentary Forum for the Development of the Mountainous Zones. Mr. Uka informed the participants for the establishment of a parliamentary group for the mountainous zones development. The parliamentary members of the above mentioned group are focused to offer especially their support in the following directions:

- Lobbying with Albanian Parliament, central and local institutions, civil society, international institution, etc., to speed up the sustainable and integrated development of the mountainous zones within the national economic framework;
- Development of the related policies and legal provisions, aiming the promotion of the sustainable and integrated development of the mountainous zones;
- Identification, supporting and organization of the lobbying activities along with national institutions, central and local, as well as with international institutions;
- Promotion and harmonization of the interventions and economic development policies, social and environmental policies, etc., aiming to increase the integration level and the economic contribute of the mountainous zones in the frame of the national economy;
- Promotion of the public awareness for the values, resources, and economic and social potential that are within the mountainous zones themselves, as well as the need for their future development.
- Drafting of a specific legal act for the mountainous zones development and submitting to the Albania Parliament is the final ambition of this Parliamentary group.

According to Mr. Uka opinion the preparation of a new forest act it's now an immediate need taking into consideration three different of ownership types: 1) management of state forest under the possession of the Forest Service; 2) management of the forest under the ownership of communes, municipalities and traditional users (village, households, forest users' association), and 3) management of private forests.

Mr. Thimaq Lako, NACFPA presented a brief introduction of current dynamics of communal forest and pasture management in Albania. One of the most important topics presented by NACFPA was the process of communal forest transfer based on the participatory approach. This approach used during the transfer process and management is based on (i) focusing on people, and not on trees; (ii) the management process to be done by insiders, and not by outsiders; (iii) requires an active participation of community members during the process of

preparation and implementation of the management plan; (iv) attention to competencies and responsibilities; and (v) training, and capacity building, etc.

In order to successfully accomplish the transfer process and proper management, the Albanian experience has shown that users' associations are the basic structures for the whole process. A bottom – up approach is applied starting with forest and pasture users at village/commune level organized in a users' association. Users' associations of the same region are represented by the Regional Federation of Forest and Pasture Users, which on their side are represented at the national scale by the National Association of Communal Forest and Pasture. Such structures do closely cooperate with the Local and Central Government and Forest Service. The main measures for the completion of the transfer of the forest and pasture ownership/user rights are considered:

- Improvement of policies and instruments for the participatory management of communal forest and pastures;
- Improvement and completion of the legal framework for the transfer of the state forest and pastures in ownership of LGU and their sustainable management from the households organized in forest user association.
- Promotion of income generation from sustainable management of natural resources under LGU ownership;
- Establishment of an efficient forest extension service for communal forest and pastures, etc.

Mr. Vezir Muharremaj presented “Analysis of the existing Albanian legal framework on the communal forests and pastures” study, which was enabled through the support of the SNV-SIDA project 7300060801 “Strengthening Sustainable Communal Forestry - Promotion of Economic Development through Capacity Building in Farmer Based Forest Management”.

Mr. Muharremaj mentioned that in the framework of policies for decentralization of the natural resources management and the legalization of the long existing informality in the possession of forests and pastures close to villages, and the EU integration, the process of forest and pastures transfer under the ownership or use of communes or municipalities has become a problem for the central government and the local government units, users (villages, agricultural families) and the associations throughout the country. The legal and sub-legal acts enacted after the '90, such as the law on forests, the law on pastures and meadows, regulation No. 308 date 26.01.1996 “On the transfer of the communal forests and pastures under use and administration”, the law on local government (2000), on the public property and on their transfer (2001), etc., have made possible the transfer of forests and pastures under communal use. In cooperation with GDFP, the local government units and the forestry service in the districts, the transfer started since 1996, with the technical and financial support of the World Bank Forestry Project (WB/FP), of the Albania Private Forestry Development Programme (APFDP) financed by the USAID, and continue to support this process: the Natural Resources Development Project, SNV (the Dutch Organization for Development) and other international organizations. In the Directorate of Forest and Pasture Policies of the Ministry of Environment, Forests, and Water Administration (MEFWA), is already functioning a sector of Communal Forests.

Until the end of 2006, there were transferred 341,000 ha of forests and 93,000 ha of pastures. In the process are involved 138 communes, with 1,290 villages and 160,118 families. In the villages have been established the commissions of forests and pastures, as well as the associations of the users of the communal forests and pastures, the regional federations and the National Association. Thus, it has begun one of the most important aspects of the reform on the forests and pastures.

During the process of transfer, a good experience has been gained, given that many agricultural families are aware of the transfer process, although not entirely; the users are engaged in the protection and the management of their forests and pastures and everywhere one can see improved forests by the families that possess them; the management plans have begun to be implemented by the associations, financed by the Forestry Project of the WB, NRDP and SNV; the attitude of the local government units and the forestry service employees has begun to change towards the communal forests and pastures. In the line of the forestry service, for the monitoring of the transfer and management of the communal forests and pastures, MEFWA has been assigned as the responsible authority; in the districts are DFS-s. In the line of the local government, in a number of communes there are appointed communal foresters. Also, communal foresters are appointed in some FUA-s.

Despite all the achievements, there is a concern for the slow pace; the process can not be considered as complete in none of communes, because the boundaries between communes, villages and forests and pastures of the users have not been legally recognized; the users have no documents to prove their exclusive rights of use over that forest or pasture, and these have not even been registered at the immovable property registration office, etc. Also, there are many problems in all the communes where the transfer process is foreseen to be completed within a short period of time (the first half of 2008), according to the instructions of the Prime Minister of Albania and the Programme of the Measures drafted by MEFWA.

The concerns are mainly related to the existing legal framework, which is not clear and complete, and does not provide the legal assurances, especially for the local users of the forests and pastures.

In order to have a clearer view of the problems and to provide their support in this important process, SNV and NACFP decided to hire a consultant to conduct a detailed analysis of the existing legal framework and its impact on the communal forestry practices in Albania.

Out of 79 analysed acts (without counting the laws as amendments), about 25% of them do mention the communal forests and pastures. From the analysis of the property rights and the rights of use over the communal forests and pastures, it can be said that the legal acts have shortcomings, gaps, overlapping of competencies or controversies that slow down the transfer process and the reform in this sector itself.

As it results from the legal framework analysis, in order for the transfer process to achieve the defined goals, it is necessary the improvement and completion of the legal framework, bearing in mind some main principles:

- The communal forest and pasture sector should have a prioritized position in the national strategies. In the framework of the national program of forests and pastures, which must be drafted as soon as possible, the objective for the transfer of forests and pastures to communes should be included, and the strategy of reforms and the role of the state, of the local government and of the users (village, family, association) in the management of the forests and pastures, as well.
- In the framework of the government programme for the expansion of decentralization and the reduction of the informality even in the forest and pasture sector, the amendments in the legal acts should foresee the transfer under the ownership of the commune or municipality of the forests and pastures within their jurisdiction, legalization – return and recognition of the traditional property rights on forests and pastures for the real claimers and the actual users (village, clan, family, association), and

providing them with the legal documents and registration at the Immovable Property Registration Office (IPRO).

- A distinction should be made in the legal acts between the forests and pastures that are managed by the commune for the fulfilment of its functions (after the fulfilment of the needs of its own inhabitants), and forests and pastures that will be managed in common by the village, the agricultural families, and the association. The criteria on forests and pastures transfer must be revised. The village should have its own property over the natural resources. The management plans should be drafted and implemented at village level, while their summaries, at commune level.
- The improvement of legal acts should recognize the rights of management by the commune or municipality and users (village, families, association), along with the forest and pasture, even the wildlife within them, as the constituent part of the unique ecosystem, and the other natural resources of the local character (springs, streams and local reservoirs, stones, sand, gravel, fish, etc.). Also, the right of the users must be recognized (village, families, association) for selling the products over their needs, and for the exploitation of the state forests and pastures, in order to have products for sale and generate income for poverty alleviation, mainly in the mountainous areas (free of charge or with a low tariff), alongside the creation of financial instruments and incentives to support the development of the communal forests and pastures and other natural resources in the rural areas.
- In parallel with the transfer of the forest and pasture areas, there should be the transfer of the relevant specialists, funds, tools and the necessary equipments from the forest service to the commune, as well as the cadastral, technical and mapping documentation. The conduct of studies and the analysis of the results and the experience in the transfer and management of the communal forests and pastures should be undertaken by the specialists of the forest service, local government, Faculty of Forestry Sciences and the Environmental and Forest Agency; the identification and dissemination of the best practices by the extension service, which must be established and function as soon as possible, and the training of the local government employees, communal foresters and the associations.
- The broad participation of the representatives of local government, especially the users and their associations, in the discussions for the improvements and completions that are required to be done in the legal acts, is the key to their success and implementation.
- During the improvement of legal acts, it should be kept in mind the adaptation of the European legislation and recent trends in the world, for the transfer of rights over forests and other properties in general, from usage to ownership.

At the end of the presentation, Mr. Muharremaj mentioned that despite the achievements, the idea of many actors is that the transfer process has gone slowly and, furthermore, is not fully completed in none of communes, because the agricultural families have not received any document to prove their exclusive rights of use over the forest or pasture taken in use. This has happened for a number of reasons, but the most important are:

- Gaps on legal acts on communal forests and pastures and that they are not implemented as needed;
- Insufficient capacities of LGU-s to assimilate the process;
- Not enough knowledge on the process by users and the mistrust they have toward the government actions, etc.

2.3 Group Work

During the third session the seminar participants has been splitted in four working groups to discuss on the following subjects:

- *Property issues* - Working Group 1
- *Sustainable management of communal forest and pastures and the role of the Forest Service* - Working Group 2
- *Economic and fiscal aspects* - Working Group 3
- *Role of Local Government Units and Non Profit Organizations* - Working Group 4

Within each group NACFPA has appointed one facilitator and one reporter, as well as a handout to focus the participants' debate and discussions within the working group subject. The participants of all working groups have a very constructive debate and their findings and recommendations were presented the second day of the seminar.

2.4 Closing day: plenary meeting and panel discussion

During the last day the plenary meeting the reporters of the working groups presented their findings and recommendations. Mr. Pal Çoku presented the findings and recommendations of the first working group on property issues. The sustainable management of communal forest and pastures and the role of the Forest Service were presented by Mr. Isuf Omuri, reporter of second working group. Mr. Ferdin Liçaj presented the findings and recommendations of the third working group on economic and fiscal aspects, and Mr. Xhelal Shyti presented the findings and recommendations of the fourth working group on the role of Local Government Units and Non Profit Organizations.

The Panel Discussion: "Legal and institutional improvements needed to face the challenges of the Albanian practice of communal forest and pasture management" among others was attended by the Vice Minister of MEFWA, Mr Taulant Bino, Mr. Pal Çoku, Head of Ulez Commune, Mrs. Valbona Ylli, honorable chairman of NACFPA, Mr. Myzafer Luma, Executive Chief of Kosovo Forest Agency, Mr. Atilla Lengyel, CEEC policy adviser of European Forest Owners Confederation, Mr. Darko Skenderski, Coordinator of Private Forest Owner Association, Macedonia, and Mr. Thimaq Lako, NACFPA, who acted as a session moderator. This session was intended as a means to generate discussion with policy makers based on the workshop discussions. Therefore, workshop participants were introduced to government policies and actions toward the decentralization process on ownership and management of natural resources.

The roundtable discussion and consequent plenary remarked the workshop was a very well received event by all participants, as it brought together experiences from different countries. Some of the findings of the workshop sessions and the main generated recommendations for policy makers are reported below.

3 Findings and Recommendations

Looking at the legal framework over which the communal forests and pastures transfer process is based on and the 10 years of experience of this process, one can see that, in parallel with the known achievements, yet there shortcomings, gaps, overlapping of competencies or controversies that slow down the transfer process and the well going of the reform in this sector. The frequent revision itself of some acts shows that it has not been worked diligently, based on analysis of the situation, and as a result, these laws are not properly implemented, the comments of local government and users or associations are not considered, etc. The main findings and recommendations are reported below.

3.1 Main findings and recommendations for the improvement of legal provisions regarding the property issues

From all reviewed legal acts, the acts for rights on ownership and use are the majorities in number, but there are a few of them mentioning directly the communal forests and pastures,

while in the others, through the main acts of the sector area and the ownership in general, have resulted also the norms that affect the communal forests and pastures or these rights are implicated for similarity. Although the support have given these laws on the development of forest and pasture sector in general, and the starting of communal forests and pastures transfer process in particular, regarding the last one many of laws represent shortcomings and gaps that should be improved or completed.

- Local Government is not well informed about the forest and pasture transfer process and some times this process is implemented by the Forest service in a mechanical way;
- The communes may have full ownership rights on their natural resources, and the transfer could be based on very clear legal definition between “ownership rights” and “user rights”;
- The transfer process must be accompanied by an information and awareness process, including the training and technical assistance for the commune and municipality staff
- The local government must keep unchangeable the forest and pasture area of the commune, but may have rights to change the designation of unproductive land or other land use types into forest.
- The communal forest and pasture may be in common use (commune or village), in group of households or in family use, in accordance with traditional patterns along communities and villages; For the common use forest and pasture the commune or village are responsible, and for other types or use the responsibility is of direct users;
- Drafting of a new forest act taking into consideration three different of ownership types: state forest under the possession of the Forest Service; forest under the ownership of communes, municipalities and traditional users (village, households, forest users’ association), and private forests; in this process may participated all stakeholders and interested group, especially at commune level, etc.

3.2 Main findings and recommendations for the improvement of legal provisions regarding the sustainable management of communal forest and pastures and the role of the Forest Service

The articles on communal forest and pastures are very few in the basic laws of the sector (law on forests, wildlife and hunting, medicinal plants, pastures) and related bylaws to include the entirety of problems that associate the management and protection of probably more than half of the surface of the forest fund and the majority of surface of the pasture fund, and fewer are for forests and pastures in use of village, family and association. There is concentration of competencies in these laws in the hands of state regarding the rights and responsibilities for the management, exploitation and protection of forests and pastures, i.e.: competencies are concentrated at the forest service (i) for the preparation of development programs, annual allowable cut; (ii) for the conduct, organization, control and protection of the wildlife and hunting; (iii) management of the medicinal plants fund from legal persons licensed from the ministry, without any distinction for territories of communes, etc. The main proposals for the sustainable management of communal forest and pastures are as follows:

- The transfer of the state forest and pastures to local government must be accompanied with the full ownership rights, not only for the trees as grass, but as a complex ecosystem together with game, medicinal plants, and every living that grow and develop within the forest;
- In the legal provisions there is not made the distinction on the procedures for the forest fund administration, or for the preparation, approval and implementation of the measures foreseen in the management plan, and for cutting and selling the wood material, between: (i) those applied in the forests and pastures in use to commune for its own needs (after fulfilling the needs of its inhabitants), and (ii) those applied in the forests and pastures in

use to village and agricultural families for their own needs, where the goals and uses for two categories are quite different;

- There regulation and guidelines for the sustainable management of communal forest are missing: (i) for forest exploitation for timber and firewood, (ii) for wood and non-wood products, (iii) for lopping and grazing, (iv) for pastures in communal use, (v) for selling the wood materials and other products when result over their needs (where should be mentioned the related specifics for forests used by commune for its own needs and for forests used by users like village, agricultural families and their associations), or (vi) when state forests and pastures are given for rural areas in need for production and selling to increase their incomes and poverty alleviation;
- The communal forest and pasture management plan is defined as a basic document drafted on the basis of forest economy units , when, in fact, the communal forests and pastures do not fit the criteria for economies; also, the terms “national technical rules of exploitation and national acts for forest exploitation planning” are not used on the communal forest and pasture practices when speaking for technical applications;
- In the legal provisions it is not expressed the exclusive right of the family to exploit only the lot given in its use for its own needs, and when the products are in excess it could sell them; additionally, when its forest is not sufficient, some quantities should be planned from the common village/commune forest, or from neighborhood village/commune forest, or from the adjacent state forest, in accord with forest service, for fulfilling its own needs or for selling and generating incomes, according to defined rules, etc.

3.3 Main findings and recommendations for the improvement of legal provisions related with economic and fiscal aspects

The processing and marketing of products and services are mentioned only in few legal acts, and this fact shows that the economic and marketing rights are not enough known, they are still concentrated in the state hands and are given only to licensed private subjects. In such a way, there is an opportunity left for illegal trade, smuggling and corruption. In the meanwhile, there are not made efforts for stimulating the added value of products through their processing and marketing. Thus, we are far from the deepening of forest and pasture sector in the market economy, in particular related to products generated from communal forests and pastures.

- The competencies, such as (i) defining the zones, terms, species, quantities and delivering the permissions for exercising activities of collection, processing and exporting of medicinal plants; (ii) for issuing the professional permissions on exercising activities by the MEPWA even for the collection of medicinal plants by users are still centralized in the ministry or Forest Service.
- No provisions for the production and marketing of wood and non-wood products, including those from hunting, from communal forests by commune, village, associations or agricultural family users (for products collected from communal forests in their use or from public forests given by the forest service) for providing incomes and improving the very low living level they have at present especially the mountainous areas;
- The new legal provision must define clearly the rights that should have the users (village, families, associations) for plants, game and every living that grow and develop within the communal forests and pastures in their use;
- The new legal provisions may provide incentive tools for supporting the FUA-s on deeper processing of wood and non-wood products, including those from hunting, and their marketing with a greater profit.

3.4 Main findings and recommendations for the improvement of legal provisions regarding the role of Local Government Units and Non Profit Organizations

The fiscal and administrative rights for communal forests and pastures, especially regarding the users and their associations, almost are totally absent. The main findings and recommendations regarding the role of local government and non profit organizations are as follows:

- Concentration of competencies at the forest service and ministry, among others for: (i) tariffs for collecting and exercising hunting, for access to hunting, fauna and natural reserves; (ii) for confiscating the killed games and sequestering the hunting arms and tools; for deciding, taking the decision and collection of fines; (iii) setting of tariffs for the harvesting and collection of the medicinal plants, for taking the decision on administrative contraventions (at the draft law on medicinal plants), etc.;
- The local government units, especially in the areas where the forest and pasture are transferred, are still poor and they don't have the human resources and the needed capacities for the sustainable management of natural resources (mainly forest and pastures); to overcome these obstacles are needed different activities especially for human resource capacity building;
- There are lack of duties for central institutions and local government authorities for the annual planning of funds to compensate losses of communal forests and pastures users from restrictions of economic activities of inhabitants in zones declared for the protection of biodiversity within the territory of their jurisdiction;
- No rules, criteria, or procedures for selling the wood and non-wood products, medicinal plants and hunting, and other products from the communal forests and pastures and local natural resources when they are in quantities more than their needs, for generating and using incomes (by communes from forests and pastures it uses for its own functions, and by users and association from forests and pastures they have in use, or from the exploitation of forests and pastures given for rural areas in need for increasing their incomes, the rights of associations for generating income, etc.);
- The tariffs for communal forests and pastures sector should be defined by LGU-s (those under their competencies), depending on local conditions and circumstances;
- The new legal provisions may define clearly the rights and responsibilities that the village, users, users association should have for generating incomes from activities in forests, pastures, hunting, medicinal plants and pastures, and incentives for their sustainable management, for the administration and reinvestment of incomes and public and private funds appointed for communal forests and pastures; also, the new legal provision may provide supportive measures when the user invests on his own for improving a degraded communal forest or pasture or replanting it, as well as an undivided or of low productivity agricultural land, to be excluded from taxation until enters in production, similar to fruit trees and vineyard cultivation, according to defined conditions.

PROGRAM

“Improvement of the Legal Framework for Sustainable Management of Communal Forests and Pastures in Albania”

**National Seminar
12th - 13th of March 2008
Tirana International Hotel**

First day, 12th March 2008

09:30 Registration

First Session:

- 10:00 Welcome speech of the Minister of Environment, Forest and Water Administration – *Prof. Dr. Lufter XHUVELI*
- 10:20 SNV: setting the seminar objectives – *Mr. Jack CORTENRAAD, SNV Albania*
- 10:30 MEFWA strategy for the implementation of the Government program on the transfer of state forest and pastures in ownership/use to LGU – *Mr. Taulant BINO, Deputy Minister of MEFWA*
- 10:45 Implementation strategy for the state property transfer to LGU: context, challenge and methodology used – *Mrs. Dhurata ÇUPI, Ministry of Interior*
- 11:00 ***Coffee break***

Second Session:

- 11:30 Program of the Forum for Development of Mountainous Zone – *Mr. Rexhep UKA, Parliament of Albania*
- 11:45 Brief introduction of current dynamics of communal forest and pasture management in Albania – *Mr. Thimaq LAKO, NACFPA*
- 12:00 Analysis of the existing Albanian legal framework on the communal forests and pastures – *Mr. Vezir MUHARREMAJ, NACFPA*
- 12:40 Questions/Answers
- 13:00 ***Lunch***

Third Session:

- 14:30 Group work
- Working Group 1: ***Property issues***
- Working Group 2: ***Sustainable management of communal forest and pastures and the role of the Forest Service***
- Working Group 3: ***Economic and fiscal aspects***
- Working Group 4: ***Role of Local Government Units and Non Profit Organizations***
- 17:00 Closure of the first day

Second day

Fourth Session:

- 09:00 Working groups prepare for presentations
10:00 Wrap up from the first day
10:10 Presentation of main findings and recommendations by working groups

Property issues

Sustainable management of communal forest and pastures

Economic and fiscal aspects

Role of Local Government Units and NPOs

- 11:30 ***Coffee break***

Fifth Session:

- 12:00 **Panel Discussion:** “Legal and institutional improvements needed to face the challenges of the Albanian practice of communal forest and pasture management”
13:00 Conclusions and recommendations of the Seminar – *Mr. Taulant BINO, Deputy Minister of MEFWA*
13:10 Closure

- 13:30 ***Lunch***

PARTICIPANT LIST

NATIONAL SEMINAR

“Improvement of the Legal Framework for Sustainable Management of Communal Forests and Pastures in Albania”

Hotel Tirana International, March 12 – 13, 2008

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