

Regulatory framework and development perspectives of the mechanism of public participation in the management of Russia's forests



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Abstract. The article dwells on the current state of the regulatory framework of the Russian Federation and the mechanism of public participation in forest management. The examples of addressing the problems of public participation in forest management in individual regions are disclosed. The article deals with the issues concerning the provision of in-interests of the local population through the voluntary forest certification system under the FSC scheme. Recommendations on improving the mechanism of public participation in solving the forest management issues are suggested.

Key words: sustainable forest management, public participation in forest management, information sharing, transparency, Forest Stewardship Council, FSC.

The issue concerning public participation in forest management has always been inseparably connected with the interests and possibilities of people to use various forest-granted goods. Forests, available for multipurpose forest exploitation and used by locals for centuries, have been rapidly disappearing in the past decades due to commercial cuttings. At present there has been a fierce competition for the felling of economically available forests between timber industrialists, who are given, in particular, the right to cut forests, traditionally used for the needs of the locals. Furthermore, in the vast majority of cases, the population has no impact on the decisions concerning forest use. Does the population have the right and opportunity to participate in forest management at present?

Part 1 Article 9 of the Constitution of the Russian Federation [2] stipulates the following: “Land and other natural resources shall be utilized and protected in the Russian Federation as the basis of life and activity of the people living in the corresponding territories”. According to the article 42 of the RF Constitution, “Everyone shall have the right to favorable environment, reliable information about its state and for a restitution of damage inflicted on his health and property by ecological transgressions”.

The Constitution provides the basis for obtaining reliable information about the status of forest resources and realizing the rights of local communities to use the resources for their own development. Full implementation of rights is possible only if the population is involved in management decision-making in the sphere of forest exploitation. Therefore, a regulatory mechanism, securing this right in practice is required.

At present, the Forest Code of the Russian Federation is the main document, specifying the forest legal relations [3]. According to Part 7 Article 1 of the Russian Federation Forest Code, the basic principle of the forest legislation

provides that participation of citizens and civil society associations in decision-making, which may affect forests when they are used, protected and renewed, with procedures for and forms of such participation is to be compliant with the legislation of the Russian Federation.

Another fundamental principle of forest legislation, stipulated by Part 2 Article 1 of the Russian Federation Forest Code, is maintenance of habitat-forming, water-conservation, protection, sanitation, recreation and other beneficial functions of forests, to ensure that each person could exercise the right for a healthy environment. Protection forests (e.g.: green belts, forest parks, urban forests, forests in water-conservation zones, etc.), fulfilling environmental and social functions, are assigned and preserved for this purpose, hence, ensuring the constitutional right of citizens to a favorable environment.

Article 11 of the Russian Federation Forest Code “Stay of Citizens in Forests” is of special interest in terms of the realization of public interests, as it confirms the human right to use forest resources in their lives. Part 1 Article 11 stipulates the following: “Citizens shall have the right to stay in forests freely and gratis and to harvest and collect, wild fruit, berries, nuts, mushrooms, other edible forest resources (food forest resources), and non-timber forest resources, for their subsistence needs”. Unfortunately, this requirement is rather often not applied in practice.

At present, the main statutory form of public participation in forest management, including the resolution of socially significant issues regulated by the Constitution and the Forest Code of the Russian Federation is public debate over laws, which is understood as a set of activities aimed at raising public awareness of the planned economic and other activities and their possible effect on the environment, in order to identify and to consider public preferences in the impact assessment process.

Public debates over draft laws are conducted in accordance with the RF Government Decree No.159 of February 22, 2012, “On approving the rules concerning public discussion of drafts of federal constitutional laws and federal laws” [4]. They apply to the federal laws regulating the forest area (RF Forest Code, the Water Code of the Russian Federation, the Law on Special Protected Nature Areas, etc.) , subordinate regulatory acts (forest plans of the subjects of the Federation, forestry regulations of forest districts, etc.), long-term and short-term planning programs (e.g. forest exploitation projects).

Until recently public participation in the discussions of a number of documents was guaranteed by subordinate acts. Thus, Paragraph 6 of “Regulations on the preparation of the forest plan of the subjects of the Russian Federation” introduced the RF Government Decree No. 246 of April 24, 2007 [5], in accordance with Article 86 of the Russian Federation Forest Code of the RF, proclaims: “State government authorities of the subjects of the Russian Federation familiarize the parties concerned with the draft of the forest plan to, by publishing it on the official website of the supreme government body of a constituent entity of the Russian Federation for at least 30 days online. As the term expires, state government authorities of the subjects of the Russian Federation improve the draft of the forest plan within 30 days, considering the suggestions and remarks made by the parties concerned, and then submit it to the Ministry of Natural Resources of the Russian Federation”. The position of the lost effect according to the Decree of the Russian Government dated 28 December 2011 No.1183 [6]. The regulations expired pursuant to the RF Government Decree No.1183 of December 28, 2011 [6].

Such procedure was stipulated by Paragraph 12 of the Order of the Ministry of Natural Resources of the Russian Federation No. 106

of April 19, 2007 “On approval of the forest management procedure content, their development guidelines, validity and introduction of changes” [9], issued in accordance with Article 87 of the Forest Code of the Russian Federation. The Order obliged central and local authorities to familiarize the parties concerned with the forestry regulations draft, to improve it, considering the proposals and remarks made, and to adopt the draft. The Order expired pursuant to the Order of the Ministry of Natural Resources of the Russian Federation No. 87 of April 2, 2012 [10].

The Order of the Ministry of Natural Resources of the Russian Federation No.125 of May 14, 2007 “On approval of the order of state or municipal expertise of the forest development plan” [11], issued in accordance with Article 89 of the Forest Code of the Russian Federation “State or municipal expertise of the forest development plan” requires conducting a public discussion of forest development plans. Public discussion was a mandatory procedure, when preparing for the state environmental expertise. The proceedings of public hearings were included in the standard package of documents, submitted to the expertise. The Order expired pursuant to the Order of the Ministry of Natural Resources of the Russian Federation No.33 of February 10, 2012 [12].

The mechanism of public participation in decision-making has been revealed in the Articles 19, 20–25 of the Federal Law No.174 of November 23, 1995 “On ecological expertise” [14] and Paragraph 4 of “Regulations on environmental impact assessment of planned economic and other activities on the environment in the Russian Federation” [13], approved by the Decree of the State Environmental Committee No. 372 of the Russian Federation of May 16, 2000. However, in accordance with Articles 11 and 12 of the Federal Law No. 174 of November 23, 1995 [14] forest development plans are not subjects of the state ecological expertise.

A number of subjects under expertise (specially protected nature areas, solid domestic waste landfills, etc.), may cover forest areas. In this case, public discussion of drafts on such subjects will be connected with forest issues.

Let us disclose the provisions of the “Law on ecological expertise”, ensuring public participation. Article 3 proclaims the following principles of expertise: transparency, participation of public organizations (associations), taking account of public opinion; organization of public discussions, opinion polls, referendums with regard to the planned economic and other activities subject to environmental impact assessment. Article 9 determines the powers of local authorities in the field of environmental expertise and gives them the right to conduct public environmental expertise on request of the population. Article 14 specifies the order of conducting the state ecological expertise, indicating that the materials concerning the subject of the state environmental expertise discussed with citizens and public organizations (associations), organized by local authorities, are an obligatory part of documentation submitted to expertise. Chapter 4 of the Law is devoted to the public ecological expertise, which can be conducted along with the state expertise. However, according to Part 2 Article 25, the results of the expertise become legally binding only when approved by the federal executive body in the field of environmental assessment. In practice, it is rather difficult to carry out the public environmental expertise, as the initiator of the economic activity, as a rule, drags out the process of submitting the documentation to public experts for assessment, seeking to receive, on a priority basis, the report prepared by the state ecological expertise.

As forest development plans are no longer subject to the state ecological expertise, public discussion is not actually essential for adopting the major documents regulating forest exploitation, despite the fact that the Forest

code of the Russian Federation postulates public participation in forest management. Decisions made during public hearings and public suggestions are not obligatory and may only be taken into consideration. The process concerning discussion of the Forest Code, forest plans of the subjects of the Russian Federation showed that, the adoption of specific proposals, suggested “from below”, was rather an exception, causing a lot of difficulties, in spite of a very high activity level of citizens, public organizations, representatives of logging companies and forest management authorities.

In accordance with the Federal Law No.59 of May 2, 2006 “On procedures for examining petitions from citizens of the Russian Federation” [15], citizens have the right to address forest management authorities and other state agencies related to forestry. As follows from the Law, a citizen’s appeal on any issue is to be considered within a fixed timeframe. Experience confirms that citizens’ petitions concerning forest management issues are not numerous, and are often decided not in favor of the citizens themselves. The low level of ecological education and passive attitude of population, in particular rural residents, to current events is one of the reasons of such situation.

Some opportunities of public participation in forest management, reflected in the Town-Planning Code of the Russian Federation, are worth mentioning. In accordance with Chapter 3 of the Code, state government bodies of the Russian Federation, public authorities of the subjects of the Russian Federation, local authorities, concerned individuals and legal entities have the right to submit proposals on the alteration of the territorial planning scheme of the Russian Federation. These changes only partially relate to forest management with regard to the planning of new specially protected nature areas. There are significant examples of the practical application of the law.

Thus, the regional public organization SPOK in the Republic of Karelia managed to introduce their proposals on specially protected nature areas into the territorial planning scheme. The proposals made by the World Wildlife Fund (WWF) in the Arkhangelsk Oblast were accepted partially.

Federal Law No.131 of October 6, 2003 “On general principles of the organization of local self-government in the Russian Federation” [16] also stipulates some opportunities for public participation in forest management, which is, however, limited to forests located on settlement lands.

A crucial gap in the Russian legislation is that the population, local and district administrations are not able to participate in the process of allocation and assignment of forest land for any type of use. Timely coordination of prospective plans on allocation of the lands for use with municipal officials and community leaders will allow preserving socially significant forest areas.

Public availability of information on forests is essential to public involvement in forest management [19]. Russia has the legislative framework required for ensuring this condition. As has been stated before, Article 42 of the Constitution of the Russian Federation proclaims the following: “Everyone shall have the right to a favorable environment, reliable information about its condition...”. Paragraph 2 Article 24 specifies that the bodies of state authority and the bodies of local self-government and the officials thereof shall provide to each citizen access to any documents and materials directly affecting his/her rights and liberties. The bodies of state power and bodies of local self-government, their officials are obliged to provide access to documents and materials directly affecting his rights and freedoms. Article 29 determines that everyone shall have the right to seek, get, transfer, produce and disseminate information by any lawful means.

Providing citizens with reliable and complete information on the state of forests, on the activities of state government and management bodies by the Internet is not just the mood of the times, but a legislative requirement as well.

The website for the forest management agency of the subject of the Russian Federation is not just a “unique style” or a representation on the Internet, but also an important mechanism for informing and involving the citizens in forest management. Federal Law of the Russian Federation No.80 of February 9, 2009 “On providing access to information about activity of state bodies and bodies of local self-government” [17] discloses these provisions of the Constitution of the Russian Federation in detail. In particular, Paragraph 1 of Article 10 stipulates that government bodies and bodies of local self-government post information on their activities on the Internet, where they create official websites, stating e-mail addresses to which information users can forward requests and the requested information can be received.

However, the information posted on the websites of forest management agencies with regard to the state of forests, the activities of forest users and forest management agencies leaves much to be desired. In 2010–2011 the environmental organizations, included into the Public Environmental Council under the Federal Forestry Agency took notice of websites of state forest management agencies of the RF subjects and the quality of the websites content. This topic has been repeatedly discussed at the council meetings, during one of which it was recommended to include the quality indicators of websites in an independent rating of state forest management, held by the World Wildlife Fund – Russia in 2010–2011 [1].

WWF rating showed that only a few subjects make full use of the Internet. The web-site content of many forest management agencies

of the regional level does not meet the modern requirements concerning completeness and actuality of information on forests and the agencies' activities on the use, conservation and protection of forests. The opportunities of informational work raising population awareness of forest fire prevention and clarifying the acting regional normative legal documents are not fully used.

Regional regulations are adopted in all regions. However, the documents are submitted for online review at the official websites of forest management agencies in less than half of the RF subjects. Therefore, it is rather complicated to call for the fulfillment of laws and regulations, when it is difficult even to review their content.

All regions reported on the development and approval of forest plans and forest management regulations. But in at least half of cases the population and other parties concerned are able to review the documents online. Map documents, which are of most interest to the public and other parties concerned for the monitoring (e.g.: control over the legality of forest exploitation) have been placed online only in a few cases.

The rating indicates that by many indicators the publicly available statistical information, provided by regions, is unreliable. This undoubtedly hampers public participation in forest management and the adoption of scientifically-based management decisions by forest management agencies that have to manage forests practically "blindfold".

Moreover, public forest (environmental) councils under the regional forest management agencies occasionally have been efficiently acting in the RF subjects. Public environmental Council of the Federal Forestry Agency has been steadily operating since 2005. The work of the Council is probably far from ideal, nevertheless, at the Council meetings the representatives of public organizations and

Federal Forestry Agency regularly discuss the most important and urgent issues that interest the public.

A certain experience of public involvement in forest management can be observed at the regional level.

For example, in the result of the activities of Komi Regional Foundation "Silver Taiga" and the model forest "Priluzie", public hearings have been determined as an abiding procedure when leasing forest lands in the Komi Republic. This experience had both pros and cons. The main drawback is the advisory status of the decisions made at the public hearings and the unwillingness of the locals to participate in the procedure. Provided that the resolutions of the hearings are binding, the local residents will express greater interest in them, consequently, the mechanism affecting the adopted decisions will start operating. Unfortunately, the attempts to involve the local population in the solution of the issues concerning the assignment of forest lands for use are rare and do not produce proper social effect.

Certain efforts, aimed at increasing the role of society in solving the forest management issues, have been made in the Vologda Oblast. Thus, the Public Council under the Forest Department has been formed, in compliance with the Oblast Government Decree No. 1691 of December 27, 2011 "On the concept promoting the development of civil society institutions in the Vologda Oblast" [7], the Resolution of the Governor of the Oblast No.686 of 24, 2012 "On the formation procedure of public councils under the oblast executive bodies" [8]. The aim of the Council is to promote coherence of socially significant interests of the Russian Federation citizens, foreign citizens staying in the territory of the Russian Federation, stateless citizens, as well as civil society institutions and Forest Department of the Vologda Oblast. Raising public awareness of the main directions of the activities of the Vologda Oblast

Forest Department is one of the tasks of the Council. The establishment and development of the councils in the regions (in forest areas) will facilitate the role of society in the development of forest relations.

The international voluntary forest certification system under the Forest Stewardship Council (FSC) scheme plays an important role in the development of socially-oriented forest management in Russia. The introduction of the scheme into the management system of a logging enterprise assumes active engagement of all the parties concerned, including indigenous peoples (principle 3), local residents and employees (principle 4) in the process of forest management.

Further development of forest certification will promote the role of society in forest management. Nevertheless, efficient implementation of the FSC approaches directly depends on the population awareness of the opportunities in the framework of the given mechanism and its procedures, and, primarily, on the activity of the local residents and public organizations. Unfortunately, the FSC mechanisms for the protection of the interests of the local population by no means always prove to be fully activated in the certified territories.

In the process of implementing the FSC forest certification the interests of local and indigenous peoples are primarily taken into account with regard to the possibility of preserving high conservation value forests (HCVF) of 5 and 6 types (in the FSC terminology), or so-called “social forests”, from logging. Such forests are necessary for the economic survival of the population, important in terms of traditional multipurpose forest exploitation, socially significant (including their cultural, religious, recreational, etc. value)

Social forests are the forests necessary for the existence of the local (rural, indigenous, urban) population, particularly significant as the source of life, health, material and spiritual resources. Such forests shall not be used

for industrial purposes, so that their social potential is preserved and developed.

Accordingly, the introduction of the social forests category is to be accompanied by a legislative package, stipulating public participation in the management of this category of forests that should be based on traditional forms of public management, characteristic of various territories. The mechanisms, forms of social forests control and use should be discussed at the level of rural settlements, and then approved by appropriate acts at the district and regional level. It should be noted that the forms of social forest management may vary depending on regional and local conditions and traditions. Without this the introduction of the new category will not be adequately effective.

At present, the established and operating specially protected nature areas (SPNA) may become first grounds for implementing the concept of social forests. In order to realize this idea, it is necessary to make appropriate amendments to section 4 of the “Law on SPNA” with regard to nature parks [18], to supplement Article 18 of the Law with the regulations on the purposes of establishing nature parks as the territories required for maintaining natural and cultural landscapes and traditional sustainable nature management. Moreover, it is advisable to expand Article 20 on the legal regime of nature parks, prescribing the possibility of public control along with the state one.

Summarizing all the above-mentioned information, the authors note that in spite of individual positive aspects, Russia lacks applicable statutory mechanism of public participation in forest management and exploitation. The main reasons of the current situation are the following:

- absence of appropriate regulatory framework;
- advisory character of prior decisions and proposals;
- absence of heavy and address information on the possibilities of public discussion

concerning forest plans, forest management regulations, forest development plans and other documents provided to potentially interested parties;

- public's lack of knowledge and skills appropriate for discussing and amending the documents of consideration;

- disinterest of logging companies and forest management authorities, representing forest development projects, forest plans and forest management regulations, in conducting actual discussions and hearings

The mechanism really facilitating public participation in the process of forest management should include the following:

- legislative consolidation of state environmental expertise concerning the documents of forest planning, including forest plans of the subjects of the Russian Federation, forestry regulations of forest districts and forest exploitation plans;

- elaboration and consolidation of the public hearings procedure, assuming complete openness of forest planning documents to all the parties concerned, targeted informing of the participants, the possibility of free participation in the discussion of all the parties concerned, clear and fair scheme for making proposals;

- development and introduction of the procedure coordinating perspective plans concerning the assignment of forest lands for use with municipal officials and the public;

- establishment and development of forest public councils in the regions (forest districts), enhancing the role of society in the development of forest relations;

- raising population awareness of the issues concerning public participation in forest management and exploitation;

- free access to all forest planning documents (primarily logging plans), including map documents, posted at the websites of forest management agencies;

- large-scale implementation of the voluntary forest certification system, enhancing social role of forests;

- extension of the list of forest categories by adding the “social forest” category.

Active public participation, when elaborating and adopting decisions at all management levels, is one of the most important tools to achieve balance between all the parties concerned with regard to forest exploitation and is the basis for democratic development of the state and civil society.

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