

EVALUATION OF THE INTERDEPARTMENTAL COMMENT PROCEDURE

Bill amending Act No. 326/2005 Coll. on Forests as amended and on Amendments to Certain Acts

Entity	Comment	Type	Eval.	Evaluation method
The public represented by Ing. Oružinský	<p>We request the following point to be added before point 1: “Forests are one of the greatest assets of our country, they form one of the basic components of the environment and provide an irreplaceable source of wood for the national economy. Forests affect and improve the climate, water and soil conditions, create a natural environment for many species of living organisms and their communities, preserve natural beauty, biodiversity and are also a source of health and refreshment for the population. All these functions of forests are the reason why we need to protect forests, forest lands and forest trees; at the same time, the forests must be continuously and systematically made to thrive, managed differently, respecting the knowledge of modern science and research, especially in the field of biology, ecology, technology and economics and the principles of sustainable development of society.”.</p> <p><u>Justification:</u> The Forest Act lacks a summary of the reasons why legislation on forest management is actually needed. Although the reasons given in the comment may seem obvious, we consider it expedient, also in view of the logical structure of the Act, to give a brief summary of the reasons why forests in Slovakia need to be protected and why sound and sustainable forest management is needed. The functions of forests are irreplaceable (as stated in the current wording of the Forest Act), but only well-managed forests provide these functions to an extent that is beneficial to human society and the protection of the environment. The above summary of reasons (preamble) is an amended version of the original Forest Act (No. 61/1977 Coll.).</p>	F	PA	The text to be incorporated in the Explanatory Memorandum.

Komentár od [A1]: Z - zásadná (sk) F - fundamental (aj)

Komentár od [A2]: ČA - čiastočne akceptovaná (sk) PA - partially accepted (aj)

<p>The public represented by Ing. Oružinský</p>	<p>In the entire Act No. 326/2005 Coll. on Forests, as amended, we call for the phrase “forest care program” to be replaced by “forest management plan”.</p> <p><u>Justification:</u> The document that is now – under the valid wording of the Forest Act – formally called the <i>forest care program</i> does not meet the requirements of similar documents (care programs), which in accordance with Act No. 543/2002 Coll. on nature and landscape protection, as amended (§54), are considered the nature protection documentation. The term</p>	<p>F</p>	<p>N</p>	<p>Because it only regards terminology that does not affect the content of the document. The conflict persists.</p>
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Komentár od [A3]: N - neakceptovaná (sk) N - not accepted (aj)

	<p>“forest care program” is an euphemism rather than a real name reflecting the reality, and (probably also for the reasons stated) this phrase has not been adopted in practice. The natural name of such a document is the phrase “forest management plan”, which has been used for decades and significantly better expresses the true nature of such a document. Its primary goal has always been and is to set basic indicators, measures, frameworks and limits for the economic use of forests, of course with regard to the non-productive functions of forests. More than 70% of the forests of the Slovak Republic are forests classified as commercial forests, the main purpose of which, in accordance with the Forest Act, is the production of wood. In these forests (which make up the majority of the forest area), we cannot see any relevant reason for calling a document setting out economic measures for wood production the <i>forest care program</i>.</p> <p>Pursuant to Art. 6 par. 2 of the Legislative Rules of the Government of the Slovak Republic (LPV), the law must be terminologically accurate and uniform. Only accurate and legally established terms and accurate legal terminology can be used in it. If there is no suitable phrase or term, another word or phrase that suits the meaning can be used.</p>			
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<p>The public represented by Ing. Oružinský</p>	<p>In point 35, we request the third sentence in 23 par. 5 to be replaced with the following sentence: “The forest manager is obliged to notify the intention to carry out incidental logging to the competent state forestry administration body within seven days from the day when they identified the need to carry out incidental logging, and in protected areas with third to fifth degree of protection also to the state administration body for nature and landscape protection33) which are obliged to publish these reports on their official websites without delay.”</p> <p><u>Justification:</u> According to the currently valid Forest Act, the forest manager is obliged, in order to protect the forest, to perform the incidental logging preferentially in a way that would prevent pests to emerge, spread and multiply. In the case of protected areas with the fifth degree of protection, this obligation applies only after the entry into force of the decision of the state administration body for nature and landscape protection on granting an exemption. If the estimated volume of timber from incidental logging exceeds 20% of the plot inventory at one time during the forest care program (LHP) or if incidental logging is carried out on a continuous area of more than 0.5 hectares, the forest manager shall report this within seven days from</p>	<p>F</p>	<p>N</p>	<p>Given the ongoing integration of state administration bodies at the district level, the issue of mutual information will be the responsibility of one legal entity. The conflict persists.</p>
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	when they learn of it, but no later than within 30 days from when it occurred, to the state forestry administration body, and in protected areas with the fourth and fifth degree of protection also to the state administration body for nature and landscape protection. ...			
The public represented by Ing. Oružinský	<p>We request the point 37 to be amended as follows: In § 23 par. 7, the words “intentional logging carried out on a plot” are replaced with “logging in stands”.</p> <p><u>Justification:</u> In connection with the provision of the Forest Act that the volume of timber from <u>intentional logging</u> in stands over the age of 50 may be exceeded by a maximum of 15% when compared to the volume recommended in the forest care program, it is not necessary to state that “this does not apply if it is exceeded by incidental or extraordinary logging”, because it is clear from the current wording that this does not apply in the case of incidental or extraordinary logging.</p> <p>In accordance with § 22 par. 2 of the Forest Act, logging may be:</p> <ol style="list-style-type: none"> a) intentional; according to the forest care program, namely in forest education as educational logging and in forest regeneration as regenerative logging, b) extraordinary; in the case of exemption or restriction of use on the basis of a decision of the state forestry administration body pursuant to § 7 par. 1 or when applying exceptions according to § 31 par. 3 and 6, c) incidental; as a part of measures for forest protection according to § 28 par. 1(a) to (c) and (i) or measures related to the elimination of the consequences of harmful factors in forests. <p>It follows that neither the incidental nor extraordinary logging is intentional.</p>	F	PA	<p>Explained at the meeting that it only relates to logging on a plot, the overall logging remains unchanged in the stand. The conflict does not persist.</p>

<p>The public represented by Ing. Oružinský</p>	<p>We request the point 39 to be amended as follows: § 23 par. 9 reads as follows: “The volume of timber from incidental logging shall be included in the total volume referred to in paragraph 8. If the total volume is exceeded by incidental logging, the forest manager may, on the basis of the written consent of the state forestry administration body, subsequently carry out only urgent logging[§ 22 par. 3(a)] and, on the basis of the written consent of a professional forest manager [§ 48 par. 2(k)] only another incidental logging. Another incidental logging means incidental logging caused by a new action of harmful factors in forests.” <u>Justification:</u> The proposer's attempt to eliminate the principle from the law that incidental logging</p>	<p>F</p>	<p>PA</p>	<p>With regard to comment No. 4, conflict is resolved.</p>
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	<p>will not be included in the total volume of logging is inadmissible. On the contrary, the incidental logging and in particular its control needs to be tightened up (see justification to comment No. 3), therefore when incidental logging can lead to a specified total volume of logging (within a forest unit), a stricter regime for permitting incidental logging needs to be established, as such logging “interferes with the heart of the forest”. The written consent of a professional forest manager is required to carry out any logging, and therefore stating that another incidental logging can be carried out only with the written consent of a professional forest manager is one of the many redundancies, because even if it had not been explicitly stated in the provision (§ 23 par. 9), this consent would still be necessary (since it is provided for in another section of the Forest Act). This professional forest manager's consent needs to be replaced with a stricter assessment just when the limit of sustainable logging is exceeded, which significantly eliminates the risk of misuse of incidental logging for logging beyond the specified maximum volume.</p>			
<p>The public represented by Ing. Oružinský</p>	<p>We request the point 23 to be amended as follows: In § 18 par. 3, in the first and second sentences, the “cut” to be replaced with “element”, in the third sentence, the “cut” to be replaced with “elements”. <u>Justification:</u> The currently valid wording of § 18 par. 3 stipulates that the smallest permissible distance of adjacent restoration cut, as well as their distance from the area with forest stand not secured under § 20 par. 6 and 7, must not be less than their width, regardless of the ownership boundary; in the case of undergrowth management, this condition does not apply if the restoration cut does not lead to a decrease of the trunk of the restored forest stand below half of the full trunk. An effort to leave out the reference to § 20 par. 7 of the Forest Act in connection with the allocation of restoration cut is an effort to create unclear criteria for the allocation of restoration cut. Such an effort is unacceptable. It is therefore necessary to keep the reference to the definition of secured forest stand in § 18 par. 3 of the Forest Act.</p>	F	N	<p>Given that the above issue is addressed by the empowering provision of § 66(c) that determines the criteria in the Decree of the Ministry of Agriculture and Rural Development of the Slovak Republic, the conflict is resolved.</p>

<p>The public represented by Ing. Oružinský</p>	<p>We request the point 30 to be left out. <u>Justification:</u> § 20 par. 7 of the Forest Act is related to the allocation of restoration cut. An effort to leave it out is an effort to create unclear criteria for the allocation of restoration cut. Such an effort is unacceptable. It is therefore necessary to keep the original wording of § 20 par. 7 of the Forest Act.</p>	<p>F</p>	<p>N</p>	<p>Given that the above issue is addressed by the empowering provision of § 66(c) that determines the criteria in the Decree of the Ministry of Agriculture and Rural Development of the Slovak Republic, the conflict is resolved.</p>
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<p>The public represented by Ing. Oružinský</p>	<p>We request the following point to be added after point 28: In § 20 par. 6, the phrase “up to ten years” is replaced with “up to five years”.</p> <p><u>Justification:</u> We propose to tighten the obligation of the forest manager to ensure the forest stand after the reforestation within two to five years (while this can be extended for another two years). In connection with the reforestation and the commitment of the manager to manage forests sustainably, we also consider the (basic) period of up to ten years to ensure forest stand after reforestation too long, which is contrary to economic principles (the later ensured stand, the higher operating reforestation costs). The five-year period for ensuring the forest stand has been a standard and legal maximum (basic) period in forestry for decades. The proposer cannot give in to the pressure of some forest managers, for whom the reforestation after logging seems to be a less important activity than the monetization of harvested forest stands. Forest management is not only about logging, but also about the fastest and most natural restoration of stable forest stands. Otherwise, the clearing flora competes with the forest, which may also be interesting from a scientific or ecological point of view, but from the point of view of forestry economics, permitting the clearing flora to develop to a greater extent is a failure of professional and sustainable forest management.</p>	<p>F</p>	<p>PA</p>	<p>After the meeting and subsequent email approval of the amended text, the conflict is resolved.</p>
<p>The public represented by Ing. Oružinský</p>	<p>We request the point 29 to be amended as follows: In § 20 par. 6, the phrase “extend this period for two more years” shall be replaced by “extend it by a maximum of two years in duly justified cases; this period may not be extended”.</p> <p><u>Justification:</u> We request to add to the provision in question that the period for ensuring forest stands after reforestation may only be extended in duly justified cases, otherwise it is only a formal bureaucratic extension of the period on the basis of unclear principles, or no principles. If the basic period is set, for example, for 5 years and may be extended by 2 years, it is legitimate to require the forest managers to duly justify why they have not been able to comply with the basic legal deadline.</p>	<p>F</p>	<p>A</p>	
<p>The public</p>	<p>We request the point 27 to be amended as follows: § 20 par. 4 reads as follows:</p>	<p>F</p>	<p>PA</p>	<p>After the meeting and subsequent email approval of the amended text, the conflict is resolved.</p>

Komentár od [A4]: A - akceptovaná (sk) A - accepted (aj)

<p>Ing. Oružinský</p>	<p>“The forest manager is obliged to restore the forest on the clearing no later than two years from the end of the calendar year in which the clearing occurred, except for protected areas with the fifth degree of protection. The state forestry administration body may extend this period once, at the request of the forest manager, by a maximum of two years. In the case of the formation of clearings to the extent that does not allow the period under the first sentence to be met, if this is necessary due to the creation of an age and spatially differentiated structure of stands, or in the case of the formation of clearings according to § 37 par. 3, the state forestry administration body may, at the request of the forest manager, determine a specific schedule for the clearing reforestation. The period for the clearing reforestation may not exceed a total of 0.001 years per hectare of its continuous acreage; however, not less than 2 years and not more than 10 years. The time limit may be extended no more than once and for no more than the original period, and it must be duly justified.”</p> <p><u>Justification:</u></p> <p>We consider the determination of a maximum period for reforestation (forestation) regardless of the acreage of the clearing to be illogical and exploitable. After approving such a provision of the draft amendment to the Forest Act, the state forestry administration body could (either purposefully or mechanically) approve a maximum forestation period, i.e. 20 years, even for relatively smaller clearings where such a period would not be biologically or economically appropriate. We consider it appropriate to incorporate the principle of proportionality into the law, i.e. that the basic period and also its extension shall depend on the continuous acreage of the clearing, because the extent of the clearing is the determining factor affecting the period of its reforestation.</p>			
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<p>The public represented by Ing. Oružinský</p>	<p>We request the point 54 to be amended as follows: § 30 par. 3 reads as follows: “Physical education, sports or tourist events can only be organized on forest lands in accordance with special regulationsXY)” The footnote to the XY reference reads: ^{XY}) Act No. 479/2008 Coll. on the organization of public physical education events, sports events and tourist events and on amendments to certain Acts”. <u>Justification:</u> Such wording of the provision would <i>de facto</i> eliminate organized tourist events, school trips in nature, leisure activities for children, youth and adults in nature, etc., which cannot be the intention of the</p>	<p>F</p>	<p>A</p>	
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	<p>proposer. There is no justification for the obligation to obtain the forest manager's consent for activities in nature which do not cause them any harm.</p> <p>It is also unrealistic for the organizers of such events, even with a small number of participants (for example, organized Saturday trips of local tourist clubs, etc.), to always find out who is the forest manager before any event, ask for a permit in writing and wait for their response, if any (in addition, many events take place on the territory of several managers). Such bureaucracy would in fact make it impossible to organize events in the forest legally. In addition, it is questionable whether such an "instrument of agreement" can even be incorporated into the law, which, however, is not an agreement, but is only an expression of the consent or disagreement of the forest manager with the planned event. The procedure proposed represents inappropriate and unjustified bureaucracy and restriction of the free movement of citizens of the Slovak Republic who need to recreate and regenerate their physical and mental strength in their free time (relax after work, recovery leave).</p> <p>...</p>			
<p>The public represented by Ing. Oružinský</p>	<p>We request the point 16 to be left out. <u>Justification:</u></p> <p>The proposer has already proposed a similar provision in one of the previous drafts of the amendment to the Forest Act, when they tried to incorporate the exemption from the levy for the exclusion of forest land for the purpose of building ski slopes (it did not pass, fortunately). As before, from the point of view of the citizens of the Slovak Republic, we can see no reason why the exclusion for the above purposes should be the reason for complete exemption from levies for the exclusion of forest land. Such a broad exemption is not appropriate and can draw considerable financial resources from the state budget, which should be used for forest improvement in the event of the exclusion of forest land due to road construction, for example.</p>	F	N	<p>Due to the fact that this is the construction of community facilities that serve all citizens, it must not be accepted.</p> <p>The conflict persists.</p>
<p>The public represented by Ing. Oružinský</p>	<p>We request the point 21 to be amended as follows:</p> <p>In § 16 par. 4(e) the full stop at the end is replaced by a semicolon and the following words are added: "in the case of forests of special purpose under § 14 par. 2(e) the framework proposal of the special management regime and the draft plan of economic measures may also be prepared by a professionally qualified personXY) (§ 42 par. 3 and 4).".</p> <p>The footnote to the XY reference reads:</p>	F	N	<p>At the meeting on 10 June 2013, the procedure was explained, the conflict is resolved.</p>

	<p>^{xv)} § 55 of Act No. 543/2002 Coll. on nature and landscape protection, as amended</p> <p>Justification: Pursuant to § 55 of the Nature and Landscape Protection Act, nature and landscape protection documentation pursuant to § 54 shall be prepared by a nature protection organization or a natural or legal person registered by the Ministry in a special list (hereinafter referred to as the “professionally qualified person”) and annually published in its Journal. In addition to the nature protection organization (State Nature Conservancy of the Slovak Republic), the nature protection documentation may also be prepared by a natural person or a legal entity registered by the Ministry in a special list. We see no reason why this should not be the case when preparing framework proposals for a special management regime and draft plan of economic measures in the case of special purpose forests pursuant to § 14 par. 2(e). The possible approval of such a draft provision could be considered a breach of the principle of equality (equal opportunities).</p>			
<p>The public represented by Ing. Oružinský</p>	<p>We request the points 7, 96 and 109 to be left out. Justification: We believe that it is not legitimate to extend the exemptions to the actions of the state forestry administration bodies, i.e. that these bodies do not act in accordance with the Administrative Procedure Code, but in accordance with the Forest Act. The Administrative Procedure Code is a general regulation stipulating how the authorities shall act, simply said. It is in the interest of the citizen, as well as in the interest of the (rule of law) state, that official proceedings be as simple and comprehensible as possible, which is ensured when they are conducted according to one “template” and not when each proceeding is conducted according to a special regulation. Such a practice does not contribute to legal stability, it makes the law and its enforceability obscure, often to the detriment of the participants in these proceedings.</p>	F	N	<p>At the meeting on 10 June 2013, the procedure was explained, the conflict is resolved.</p>

<p>The public represented by Ing. Oružinský</p>	<p>We request the points 57 and 111 to be left out. <u>Justification:</u> Such a draft provision is overly repressive – it in fact does not allow to take even a small piece of wood (e.g. by children) from the forest, which we consider an inadmissible attempt to limit or even criminalize Slovak citizens visiting forests, e.g. for recreation.</p>	<p>F</p>	<p>N</p>	<p>At the meeting on 10 June 2013, the procedure was explained. The conflict persists.</p>
<p>The public represented by Ing. Oružinský</p>	<p>We request the point 65 to be amended as follows: In § 39 par. 6, the first sentence reads as follows: “For the purposes of ensuring professional forest management (§ 36), the stand is the basic unit for ascertaining the condition of the forest, planning,</p>	<p>F</p>	<p>N</p>	<p>At the meeting on 10 June 2013, the procedure was explained, the conflict is resolved.</p>

	<p>registration and control of management created mainly on the basis of ownership of the forest land; it is created when the forest care program is prepared or amended.”</p> <p><u>Justification:</u> The minimum stand area cannot be fixed at 0.5 ha. As a result of such a fixed minimum area of the stand, also the minimum area of the reforestation element, or restoration cut, would be determined, which is directly related to the area of the subsequent stand (as a unit of spatial distribution of the forest).</p>			
<p>The public represented by Ing. Oružinský</p>	<p>We request the point 101 to be left out. <u>Justification:</u> The adoption of such a draft provision of an amendment to the Forest Act would have a direct negative impact on the state budget, which we consider to be disproportionate demands for drawing resources from the state budget at a time of lack of public resources and state indebtedness.</p>	F	N	<p>At the meeting on 10 June 2013, the procedure was explained, the conflict is resolved.</p>

**Prezenčná listina
z rozporového konania**

**k návrhu zákona, ktorým sa mení a dopĺňa zákon č. 326/2005 Z. z. o lesoch
v znení neskorších predpisov a o zmene a doplnení niektorých zákonov
zo dňa 10. júna 2013**

<i>Přítomní</i>	<i>podpis</i>	<i>rezort</i>
Ing. Robert Orvinský		verejnosc
Mgr. JUDr. SMITANA		verejnosc (zapiskovatel)
Pavol László		MPRV SR - SCHA2D
Ing. Jozef Döcny		- 0 -
Jr. Jaroslav Púška		MPRV SR - sam sepradky
PAVOL KUNIK		MPRV SR
TIBOR JAMÉK		MPRV SR
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***Attendance List
of the Dispute Procedure
on the Bill amending Act No. 326/2005 Coll. on Forests
as amended and on Amendments to Certain Acts
of 10 June 2013***

Attending person

signature

sector

