EVALUATION OF INTERDEPARTMENTAL REVIEW

Draft act on the amendment of Act No 326/2005 on forests, as amended, and amending certain acts

Method of review
Number of comments received, of which major 291 / 31
Number of comments considered 270

Number of comments accepted, of which major 177 / 9
Number of comments accepted in part, of which major 28 / 12
Number of comments not accepted, of which major 65 / 9

Dispute proceedings (with whom, when, with what outcome)
Number of comments withdrawn
Number of comments not withdrawn

Summary of comments received per participant

No.	Entity	Comments by the deadline	Comments after the deadline	No comments	Sent nothing
1 .	Ministry of Justice of the Slovak Republic	3 (3o,0m)			
2 .	Ministry of Interior of the Slovak Republic	49 (48o,1m)			
3 .	Ministry of Finance of the Slovak Republic	6 (3o,3m)			
4 .	Ministry of Culture of the Slovak Republic			x	
5 .	Ministry of Economy of the Slovak Republic	15 (15o,0m)			
6 .	Ministry of Transport, Construction and Regional Development of the Slovak Republic	17 (17o,0m)			
7 .	Ministry of Agriculture and Rural Development of the Slovak Republic				x
8 .	Ministry of Defence of the Slovak Republic	12 (9o,3m)			
9 .	Ministry of Foreign and European Affairs of the Slovak Republic	1 (1o,0m)			
10 .	Ministry of Labour, Social Affairs and Family of the Slovak Republic			x	
11 .	Ministry of the Environment of the Slovak Republic	45 (31o,14m)			
12 .	Ministry of Education, Science, Research and Sport of the Slovak Republic	9 (8o,1m)			
13 .	Ministry of Health of the Slovak Republic	3 (3o,0m)			
14 .	Office of the Government of the Slovak Republic				x
15 .	Antimonopoly Office of the Slovak Republic	1 (1o,0m)			
16 .	Statistical Office of the Slovak Republic	19 (19o,0m)			
17 .	Geodesy, Cartography and Cadastre Authority of Slovak Republic	1 (1o,0m)			
18 .	Nuclear Regulatory Authority of the Slovak Republic			x	

19 .	Slovak Office of Standards, Metrology and Testing			x	
20 .	Public Procurement Office			x	
21 .	Industrial Property Office of the Slovak Republic			x	
22 .	Administration of the State Material Reserves of the Slovak Republic			x	
23 .	National Security Office				x
24 .	Národná banka Slovenska	2 (2o,0m)			
25 .	Department of Approximation of Law, Section of Government Legislation, Office of the Government of the Slovak Republic	24 (24o,0m)			
26 .	Supreme Audit Office of the Slovak Republic			x	
27 .	Supreme Court of the Slovak Republic				x
28 .	General Prosecutor's Office of the Slovak Republic	12 (12o,0m)			
29 .	Confederation of Trade Unions of the Slovak Republic	1 (0o,1m)			
30 .	Federation of Employers' Associations of the Slovak Republic			x	
31 .	National Union of Employers	2 (1o,1m)			
32 .	State Nature Conservancy of the Slovak Republic				x
33 .	VSU				x
34 .	Public	62 (62o,0m)			
35 .	Slovak Tourist Board	1 (0o,1m)			
36 .	Slovak Agricultural and Food Chamber	1 (0o,1m)			
37 .	Slovak Chamber of Commerce and Industry	1 (0o,1m)			
38 .	Plenipotentiary of the Government of the Slovak Republic for the Development of Civil Society		4 (0o,4m)		
	TOTAL	**287 (260o,27m)**	**4 (0o,4m)**	**9**	**6**

The evaluation of substantive comments is set out in the table below.

Explanation of the abbreviations used in the table:

O – ordinary	A – accepted
M – major	N – not accepted
	AP – accepted in part

Public	**On Point 101** Comment 17 We request deletion of point 101. Grounds: The implementation of this proposal in the amendment of the Forest Act would have a direct negative impact on the state budget and in a time when there is a shortfall of public funds and the state is heavily indebted, we consider this an unreasonable demand on funds from the state budget. This is a major comment.	**O**	**N**	Disregarded
Public	**On Point 65** Comment 16 In point 65, we request the following change: Section 39(6), first sentence, shall read: "For the purposes of ensuring professional forest management (Section 36), a stand is the basic unit for determining the condition of a forest, and for planning, recording and monitoring management, which is created mainly based on the ownership of forest land; it is created when the forest care programme is drawn up or amended." Grounds: The minimum stand area cannot be fixed at 0.5 ha. If a minimum stand area were fixed in this way, it would also fix the minimum area of a regeneration element or regeneration cut, which is directly linked to the area of the subsequent stand (in respect of the spatial division of the forest). This is a major comment.	**O**	**N**	Disregarded
Public	**On Points 57 and 111** Comment 15 We request deletion of points 57 and 111. Grounds: The proposed measure is overly repressive – it essentially prohibits the removal of even small sticks from a forest (such as children collect), which we consider an attempt to restrict or even criminalise citizens of the Slovak Republic who visit forests for, e.g., recreation. This is a major comment.	**O**	**N**	Disregarded
Public	**On Points 7, 96 and 109** Comment 14 We request deletion of points 7, 96 and 109. Grounds: In our view, there are no grounds for the exemption granted to proceedings of state forestry administration bodies, whereby proceedings of these bodies are governed not by the Code of Administrative Procedure but by the Forest	**O**	**N**	Disregarded

	Act. The Code of Administrative Procedure is general legislation which – to put it plainly – tells authorities how to act. It is in the interest of both citizens and the rule of law that official proceedings should be as simple and easy to understand as possible, which can be ensured by making such proceedings follow a single "template" rather than every Nth proceeding taking place under special rules. The proposed procedure will not contribute to legal stability; it reduces transparency in the law and its enforcement, often to the detriment of the parties to such proceedings. This is a major comment.			
Public	**On Point 21** Comment 13 In point 21, we request the following change: In Sec. 16(4)(e), the full stop at the end is replaced by a semicolon and the following words are affixed: "in the case of forests with a special purpose under Sec. 14(2)(e), the framework draft of the special management regime and the draft plan of management measures may also be prepared by a professionally qualified person XY (Sec. 42(3) and (4),". Footnote XY shall read: XY) Sec. 55 of Act No 543/2002 on nature and landscape protection, as amended Grounds: Under Sec. 55 of the Act on nature and landscape protection, documentation on nature and landscape protection under Sec. 54 may be prepared by a nature protection organisation or a legal person or natural person registered by the ministry in a special list ("a professionally qualified person") that the ministry publishes in its official journal every year. This means that besides the nature protection organisation (the State Nature Conservancy of the Slovak Republic), documentation on nature protection may also be prepared by a natural person or a legal person registered in the ministry's special list. We do not see why the same rules should not be applied to the preparation of a draft of the special management regime and a draft plan of management measures in the case of a forest with a special purpose under Sec. 14(2)(e). Approval of the provision in its present form could be considered a breach of the principle of equality (equal opportunities). This is a major comment.	**O**	**N**	Disregarded
Public	**On Point 16** Comment 12 We request deletion of point 16. Grounds:	**O**	**N**	Disregarded

	The proposer included a similar proposal in an earlier draft amendment of the Forest Act, when they tried to exempt the construction of ski slopes from the fee for declassifying forest land (though fortunately, that did not pass). As in the earlier case, we, as citizens of the Slovak Republic, do not see why such a purpose would justify an exemption from the fees for declassifying forest land. Such a broadly formulated exemption is disproportionate and may deprive the state budget of considerable funds, which ought to be used to improve forests when forest land is declassified to build a road, for example. This is a major comment.			
Public	**On Point 54** Comment 11 In point 54, we request the following change: Section 30(3) shall read: "Physical culture, sports and hiking events can be organised on forest lands only in accordance with special regulations XY)" Footnote XY shall read: XY) Act No 479/2008 on the organisation of public physical culture events, sports events and hiking events, and amending certain acts". Grounds: The current proposal would lead to the *de facto* termination of organised hiking events, school trips in nature, leisure activities for children, youth and adults in nature etc., which cannot be the aim of the proposer. There can be no justification for the requirement to obtain the consent of the manager of the forest for activities in nature that would not cause any harm to the forest manager. It is also infeasible for the organisers of such events, including those with a small number of participants (for example, Saturday outings of local hiking clubs or the like), to identify the managers of the forest, to contact them in writing to request permission and wait to see when or even if the manager of the forest will respond, before every such event (not to mention that many events take place on the territory of multiple managers). Such bureaucracy would essentially make it impossible to organise events in forests. Furthermore, it is dubious whether it is possible to insert such a "system of agreement" through the law since it does not really establish an agreement but only an expression of the forest manager's approval or disapproval of a planned event. The procedure proposed in the draft amendment imposes disproportionate and unjustified bureaucracy and restricts the freedom of movement of citizens of the Slovak Republic, who need to rebuild and	**O**	**N**	Disregarded

	regenerate their mental and physical strength in their leisure time (rest after work, convalescent leave). In addition to the guarantee of freedom of movement in the Constitution of the Slovak Republic (Art. 22), the proposed measure infringes the constitutional right to a favourable environment (Art. 44) and the right to health protection (Art. 40). We also see a conflict with Article 2(3) of the Constitution of the Slovak Republic, under which everyone can do whatever is not prohibited by law and nobody can be forced to do something that is not required by law. The proposed wording gives the manager of a forest a de facto right to prohibit the entrance of, for example, an organised hiking group on a marked hiking trail through their forest, which not only goes against all social, historical, cultural and moral norms, but is also unconstitutional because a forest manager's "failure to reach agreement" with an organised group of hikers cannot be equivalent to a prohibition and therefore such a system of "agreement" cannot be used to forbid anyone to do anything. Under Art. 20(3) of the Constitution of the Slovak Republic, ownership cannot be misused to the detriment of another's rights or in conflict with general interests protected by law. The exercise of property rights cannot be to the detriment of people's health. Furthermore, the proposed "agreements" do not even involve the owners of forest land but only their managers. We therefore request that the draft amendment incorporate a reference to the existing law, namely Act No. 479/2008 on the organisation of public physical culture events, sports events and hiking events, and amending certain acts, which provides comprehensive coverage of the matter at issue and which, amongst other things, establishes an uncomplicated basis for small, organised trips by hiking clubs, school trips to nature and the like. At the same time, this solution preserves the ability of the owners (though not the managers) of land to comment on large events. The draft amendment of the Forest Act also makes it impossible for a forest manager to opt out of dealing with these issues if they do not interest them or if they agree with events. If, for example, the manager of a forest has no objection to events or considers them useful and supports them (for example, in recreational forests), it is unreasonable to require them to give individual written consent to every organiser, and it is not even within their power. In areas popular with hikers, there could be hundreds of "hiking events" every year. It is completely unreasonable to impose such a general restriction of activities in public forests. The development of leisure activities is in our society's interest so why does the amendment seek to restrict or prohibit them?			

	It is also questionable whether there is any need for the Forest Act to lay down an obligation to prove consent for the organisation of an event when such an obligation is already established in another act, i.e., Act No 479/2008 on the organisation of public physical culture events, sports events and hiking events, and amending certain acts. Under the Legislative Rules of the Government of the Slovak Republic (Art. 7 and Annex 5), an act must not reproduce the provisions of another act but incorporate a reference to the other act. If it is necessary to reproduce material from other legislation, the reproduced provisions must be expressed in general terms and the relevant provisions must be cited in a footnote, e.g., "Proceedings for the imposition of fines under this act are subject to the general regulation on administrative procedure.1)". The draft amendment of the Forest Act also fails to present any definition of "commercial activities", which is likely to create a *de facto* prohibition of activities such as guided walks in forests or photography in forests for commercial purposes for the same reasons as above. The provisions would be open to excessively loose interpretation, which should be avoided when drafting legislation under the government rules. A provision open to such loose interpretation is vulnerable to abuse, selective application, and interpretation in ways that severely infringe the fundamental rights and freedoms of citizens of the Slovak Republic and is therefore unacceptable. There is no reason why the agreement of the manager of a forest should be required for all commercial activities without distinction, including those that could not result in even potential harm to the manager. For example, leading a small group on a guided walk through a forest where public access is permitted under other legislation does not represent any greater harm to the manager than "non-commercial" tourism. Naturally, we accept the legitimate exercise of property rights by landowners, especially when mass events could infringe their rights and legally protected interests, but not every "commercial activity" is detrimental to landowners (as the current draft amendment suggests). Furthermore, the ownership of forest land is linked to land (parcels) and not the forest or forest environment as such. The owners of forest land do not own the forest but the forest land and that is what they have the right to dispose of (though with the duty to care for it and protect it) in accordance with the law of the Slovak Republic. It is completely unreasonable to impose blanket restrictions on activities in public forests. The development of sustainable small businesses is in the interest of our society, so why should it be restricted in this way? Furthermore, the proposed text is illogical – a commercial activity is also an "event" so why should it be singled out? What is the difference for the			

	manager of a forest between an organised walk through the forest by ten hikers who are members and supporters of a hiking club (i.e., a hiking event) and a walk through the woods by nine clients and one guide (i.e., a commercial activity)? The right to freedom of movement in forests in the territory of the Slovak Republic has long been respected, by various socio-political systems and regimes. It is unacceptable for the draft amendment to infringe on this traditional right of the inhabitants of the territory of Slovakia in any way, and certainly not in such a radical way that allows a very loose, controversial, abusive and selective interpretation of the restriction or "ban". This is a major comment.			
Public	**On Point 27** Comment 10 In point 27, we request the following change: Section 20(4) shall read: "The manager of a forest is obliged to undertake reforestation of a clearing within two years from the end of the calendar year in which the clearing was created, except in protected areas with the fifth degree of protection. The state forestry administration body may extend this period once at the request of the manager of the forest, for a period of at most two years. If clearings are too extensive for compliance with the deadline under the first sentence, or if it is necessary to create an age and spatially differentiated structure of stands, or where a clearing is created in circumstances under Sec. 37(3), the state forestry administration body may, at the request of the manager of the forest, set an individual schedule for the reforestation of the clearing. The period for reforestation of a clearing must not exceed the total of 0.001 year per hectare of its continuous area but shall not be less than 2 years or more than 10 years. The deadline can be extended at most once and for the same period as was originally granted, and this extension must be duly justified." Grounds: Setting a maximum period for reforestation without regard for the area of the clearing seems illogical and vulnerable to abuse. If the amendment of the Forest Act were passed in its present form, the state forestry administration body could (either deliberately or mechanically) approve the longest possible period for reforestation (20 years) even for relatively small clearings, where such a period would be neither biologically nor economically appropriate. We believe it would be appropriate to introduce the principle of proportionality into the act, i.e., both the base period and its extension should depend on the continuous area of the clearing because it is precisely this factor that determines the time for reforestation.	**O**	**N**	Disregarded

	This is a major comment.			
Public	**On Point 29** Comment 9 In point 29, we request the following change: In Sec. 20(6), the words "extend this period by a further two years" shall be replaced by the words "extend this period by at most two years in duly justified cases; this period cannot be extended". Grounds: We request this change in the wording to ensure that the extension of the deadline for achieving secure forest stands after starting reforestation is possible only in duly justified cases, otherwise the extension becomes a purely formal-bureaucratic procedure whose principles are unclear or non-existent. If the base period is, for example, 5 years and this can be extended by 2 years, it is reasonable to require the manager of the forest to provide an appropriate explanation of their inability to meet the base deadline. This is a major comment.	**O**	**N**	Disregarded
Public	**On Point 28** Comment 8 After point 28, we request inclusion of the following point: In Sec. 20(6), the words "to ten years" shall be replaced by the words "to five years". Grounds: We propose a stricter requirement for the manager of a forest to achieve secure forest stands (show established regrowth) within two to five years after reforestation (with the possibility to extend the period for two more years). Given the meaning of "reforestation" and the duty of forest managers to manage their forests on a sustainable basis, we consider a (base) period of up to ten years for securing forest stands to be too long, and also to be contrary to economic principles (the later stands are established, the greater the operating costs for reforestation). A five-year period for establishing secure forest stands was the standard, legislatively set maximum (base) period in forest management for decades. The proposer must not give in to pressure from a few forest managers for whom reforestation after harvesting is a less fulfilling activity than the monetisation of the harvested stands. Forest management is not just about harvesting timber but also about the fastest and most natural regeneration of stable forest stands. Otherwise, the forest must compete with clearing vegetation, which may be interesting from a scientific or ecological perspective, but which is considered a major defect in professional and sustainable forest management from an economic perspective.	**O**	**N**	Disregarded

	This is a major comment.			
Public	**On Point 30** Comment 7 We request deletion of point 30. Grounds: Sec. 20(7) of the Forest Act is concerned with the allocation of regeneration cuts. The attempt to delete it is an attempt to create unclear criteria for the planning of regeneration cuts. Such efforts are unacceptable. For this reason, Sec. 20(7) of the Forest Act must be retained in its original wording. This is a major comment.	**O**	**N**	Disregarded
Public	**On Point 23** Comment 6 In point 23, we request the following change: In the first and second sentence of Sec. 18(3), the word "cut" shall be replaced by the word "element", in the third sentence the word "cuts" shall be replaced by the word "elements". Grounds: The wording of Sec. 18(3) currently in force stipulates that the smallest permissible distance between adjacent regeneration cuts and their distance from an area where forest stands are not yet secured (with established growth) in accordance with Sec. 20(6) and (7) must not be less than their width, irrespective of ownership boundaries; this condition does not apply in a shelterwood silvicultural system if the regeneration cut does not cause a decrease in tree density of more than half of full tree density in the forest stand undergoing regeneration. Attempting to delete the reference to Sec. 20(7) of the Forest Act in connection with the planning of regeneration cuts is an attempt to create unclear criteria for the planning of regeneration cuts. Such efforts are unacceptable. For this reason, Sec. 18(3) of the Forest Act must retain the reference to the definition of a secured forest stand. This is a major comment.	**O**	**N**	Disregarded
Public	**On Point 39** Comment 5 In point 39, we request the following change: Section 23(9) shall read: "The volume of wood from incidental felling is counted in the total volume under (8). If the overall volume was exceeded as a result of incidental felling, the manager of the forest may then carry out only urgent felling [Sec. 22(3)(a)] with the written agreement of the state forestry administration body and additional incidental felling with written approval issued by a	**O**	**N**	Disregarded

	qualified forester [Sec. 48(2)(k)]. Additional incidental felling is incidental felling required by new disturbances in forests." Grounds: The proposer's attempt to delete from the law the principle that incidental felling will not be counted in the total volume of felling is inadmissible. On the contrary, incidental felling procedures, and especially control of such felling, need to be tightened up (for detailed reasoning, see Comment 3) and therefore if incidental felling could cause the total set volume of felling to reached (in the forest unit), a stricter regime for authorising incidental felling must be imposed because such felling "goes to the heart of the forest". The written approval of a qualified forester is required for all felling so stating that additional incidental felling can be carried out only based on written approval issued by a qualified forester is just one of several redundancies, because even if approval was not expressly stipulated in the provision concerned [Sec. 23(9)], it would still be required under other provisions of the Forest Act. In this case, written authorisation of a qualified forester needs to be replaced by stricter assessment, especially when the limit of sustainable felling is exceeded, to provide a meaningful countermeasure to the misuse of incidental felling for harvesting beyond the upper limit. This is a major comment.			
Public	**On Point 37** Comment 4 In point 37, we request the following change: In Sec. 23(7), the words "planned felling carried out in compartment" shall be replaced with the words "felling in a stand". Grounds: Regarding the stipulation of the Forest Act that the volume of wood from planned felling in a stand with an age greater than 50 years can exceed the harvest volume recommended in the forest care programme by no more than 15%, it is redundant to add that "this does not apply if the excess is due to incidental felling or extraordinary felling" because the current wording of the law makes clear that it does not apply in the case of incidental or extraordinary felling. Under Sec. 22(2) of the Forest Act, felling is divided into the following types: a) planned; in accordance with the forest care programme, including felling during tending operations (e.g., thinning) and regeneration felling in regeneration operations.	**O**	**N**	Disregarded

	b) extraordinary; in the event of declassification or restriction of use based on a decision of the state forestry administration body under Sec. 7(1) or when an exception under Sec. 31(3) or (6) applies. c) incidental; as part of forest protection measures under Sec. 28(1)(a) to (c) and (i) or measures addressing the effects of forest pests. The above indicates that the incidental and extraordinary types of felling are not planned. This is a major comment.			
Public	**On Point 35** Comment 3 In point 35, we request replacement of the third sentence in Sec. 23(5) by the following sentence: "The manager of a forest must report their intention to carry out incidental felling, within seven days from becoming aware of the need for incidental felling, to the competent state forestry administration body and, in protected areas with third to fifth degree protection, also to the state nature and landscape protection body33); the notified bodies must publish the reports on their official websites without delay." Grounds: Under the currently valid Forest Act, the manager of a forest is obliged to carry out incidental felling for the protection of the forest, primarily to prevent the development, spread and proliferation of pests. In the case of protected areas with the fifth degree of protection, this duty applies only after the entry into force of a decision of the state nature and landscape protection body granting an exemption. If the estimated volume of timber from incidental felling during the validity of a forest care programme (FCP) at one time exceeds 20% of the stock of a compartment or if incidental felling will be carried out on continuous area greater than 0.5 hectares, the manager of the forest must report this fact to the state forestry administration body and, in protected areas with the fourth and fifth degree of protection, to the state nature and landscape protection body within 7 days of learning of it, and no later than 30 days from its occurrence. The volume of wood from incidental felling is counted in the total felled volume. If the overall volume was exceeded as a result of incidental felling, the manager of the forest may then carry out only urgent felling [Sec. 22(3)(a)] with the written agreement of the state forestry administration body and additional incidental felling with written approval issued by a qualified forester. Incidental felling is the must unsustainable forestry method in Slovakia. Although Sec. 1 of the Forest Act stipulates that its purpose is primarily the	**O**	**N**	Disregarded

	conservation, improvement and protection of forests as components of the environment and the country's natural wealth, to enable them to perform their irreplaceable functions and ensure differentiated, qualified and sustainable forest management, incidental felling remains a problem that the authorities not only ignore but assist by continuously watering down the requirements for forest managers in carrying out incidental felling, a trend which the proposed amendment to the Forest Act does nothing to reverse. In the last decade, incidental felling has become a serious problem not just for silviculture but also for environmental protection. Forests are a major and irreplaceable part of the environment and if harvesting significantly disrupts forest ecosystems or leads to the deforestation of larger areas, it negatively affects the quality of the environment both in the affected localities and neighbouring areas, i.e., environmental degradation, loss of biodiversity, reduced water retention capacity in river basins etc. Since 2005, incidental felling has accounted more than half of all forest trees cut down in Slovakia, as can be clearly seen in the following graph. Graph 1: Timber harvesting in Slovakia 1997 – 2011 © Róbert Oružinský – Source: Reports on the state of forestry in the Slovak Republic The sharp acceleration in timber harvesting after 2005 is especially dangerous because it has now gone on for over 7 years and wood processing capacity has expanded to match it. A situation in which processing capacity is largely dependent on supplies of wood coming from incidental (i.e., unplanned) felling could be described using the psychological concept of addiction. From the perspective of sustainable development, it is evidently unsustainable. To clarify the issue, let us consider the following question: How would the wood processing industry react if logging in Slovakia decreased to a sustainable level? We need sustainable timber harvesting to ensure that wood supplies remain stable in the future. It is not just unsustainable but also immoral to ignore the consequences of oversaturating the timber market. Although wood is generally considered to be a renewable resource, this applies only when the basic principles of sustainable forestry are observed (e.g., the principle of equilibrium in harvesting). Longer-term forward studies by forest research institutions include a forecast of harvesting states (possibilities for timber harvesting). The harvesting state actually determines the sustainable level of timber harvesting and should be taken into account in planning sustainable forestry. The following graph compares forecast and actual logging levels and clearly shows that in recent			

	years sustainable logging levels have been exceeded by more than 50%. It should be noted again that the excess is mainly due to incidental logging. Graph 2: Comparison of actual logging and the forecast for potential logging in the Slovak Republic, 1990 – 2011 © Róbert Oružinský – Source: National Forest Centre Multiple amendments of the Forest Act since 2005 have made incidental felling a practically uncontrollable harvesting method. Harvesting that is out of control and an addiction to large supplies of timber is a "murderous" combination. Incidental felling is directly linked to Sec. 28 of the Forest Act (forest protection), which can be considered one of the most problematic provisions in forest management legislation. the combination of Sec. 28 with Sec. 23(5) of the Forest Act permits dishonest forest managers to misuse the rules on incidental felling to harvest trees that do not represent a risk to forest protection. A strong but illustrative example is the Smrekovica case, in which intensive incidental felling was carried out over a large area, ostensibly because the forest was damaged by bark beetles (or defoliation) even though the presence of bark beetles was not confirmed in the area. The illegitimacy of the incidental felling at Smrekovica in the Veľká Fatra National Park was confirmed by the Regional Court in Žilina in its judgement of 23/5/2012 (21S/95/2011) in which – amongst other findings – the court stressed that "the basic principle for protection of nature and the landscape, and the environment as such, is the principle of prevention." This is one of the reasons why we consider it necessary to establish a system of advance notice for incidental felling to create space for effective control, including public (civil society) control, which we consider to be the cheapest and most effective form of control not only for detecting unjustified and illegal incidental felling operations but also in relation to the state treasury and taxpayers (citizens) who, whether they like it or not, are being asked to pay an ever larger, now almost intolerable, share of their property. The Smrekovica case is unlikely to be the only case of its kind but given that incidental felling is practically uncontrollable, especially as regards its justification, it is impossible to make a real assessment of the extent to which incidental felling is being abused to harvest healthy and undamaged trees (especially spruce). The impossibility of essentially any meaningful and effective control of the eligibility of incidental felling is the main reason why it is essential to amend the relevant provisions of the Forest Act and adopt in the National Council of the Slovak Republic effective measures for stricter control of incidental felling. As mentioned, the purpose of the Forest Act is to ensure differentiated, qualified and sustainable forest management. The concept of sustainable			

	forestry is mentioned 10 times in the Forest Act, mainly in connection with key instruments of forest management. How this compares with the real situation is evident from the facts mentioned above. Sustainable development is a broad and complex concept. The evaluation the progress or trend in meeting objectives in this area requires the development of statistical instruments that gather and evaluate information based on the identification of measurable characteristics. This point has already been made in Agenda 21 itself, which emphasises the need to harmonise efforts to develop sustainable development indicators on the national, international and global levels, including the production of regularly updated and widely available reports and databases. The UN Commission for Sustainable Development approved a list of sustainable development indicators at its session in New York on 18 April 1996. From the full set of indicators, 125 were applicable to the Slovak Republic (7 indicators in the set related to the sea and coastal areas or arid, desert and semi-desert regions). This set of sustainable indicators was adopted by Resolution No 655/1997 of the Government of the Slovak Republic on the implementation of Agenda 21 and the evaluation of sustainable development in the Slovak Republic, which also instructed ministers and heads of other central state administration authorities of the Slovak Republic to evaluate the implementation of the individual chapters of Agenda 21 and indicators of sustainable development in the Slovak Republic in accordance with UN requirements and methods and the designated supervisor. A strategic document, the National strategy for sustainable development for the Slovak Republic (NSFSD), was adopted by the government in 2001 and by parliament in 2002. It sets out the main dimensions of environmental, social, economic and institutional development in line with the relevant chapters of Agenda 21 and the sustainable development indicators (which are set out in an annex to the document). The sustainable development indicators that the above documents stipulate with direct reference to forest management are: - wood harvesting intensity (indicator 93) - forest area net change rate (indicator 94) - percentage of forest land under management (indicator 95) The Slovak Environmental Agency (SAŽP) posts an analysis of the use of forest resources as an indicator for the environment pillar of sustainable development. The Slovak Environmental Agency works with data supplied by the National Forest Centre based in Zvolen (NLC).			

	The analysis indicates that wood harvesting in the Slovak forests has grown continuously since 2000, and the increase to 2011 amounted to 52%. Incidental logging has long been a major factor in this trend. Analysis also shows that there has been an increase in the total current increment, which is related to the current age structure and development of stocks of timber in Slovak forests. In 2011, the amounted to 12.02 million m3. What the analysis fails to point out is that the increment has increased incomparably slower than logging, which can be seen clearly in the following graph. Graph 3: Comparison of total current increment and wood harvesting, 2000 – 2011 © Róbert Oružinský – Source: SAŽP (enviroportal.sk) A simple logical consequence of the fact that wood harvesting has increased faster than the increment is that its ratio to the increment is increasing. Graph 4: Ratio of wood harvesting to the total current increment, 2000 – 2011 © Róbert Oružinský – Source: SAŽP (enviroportal.sk) The red line in graph 4 represents the "magic" limit, which can be considered the limit of sustainable harvesting in relation to the total current increment. Even the Slovak Environmental Agency's evaluation indicates that wood harvesting should not go above 60% of the total current increment. As a result of the increasing ratio of harvested timber to the increment, especially since 2004, the Slovak Republic has achieved an inglorious first place compared to the neighbouring countries. Table L.1: Intensity of timber harvesting in selected countries in 2010 (thousand.m3) harvest increment harvest/increment Slovakia 9 860 11 953 0.82 Czech Republic 16 740 21 200 0.79 Austria 23 511 30 622 0.77 Hungary 6 899 13 128 0.53 Poland 37 386 82 544 0.45 Source: SAŽP (enviroportal.sk) Based on the data presented in the graphs and table above, it is evident that the timber harvesting in Slovakia in the last decade cannot be considered sustainable. The lion's share of this is due to incidental felling. A major part of incidental felling is blamed on the proliferation of spruce bark beetles. This proliferation is largely due to unsustainable forest management practices in Slovakia that go back at least to the establishment of the First Czechoslovak Republic. In the last decade, the situation has started to "crystallise" quite dramatically. While the laws of nature (feedback			

	mechanisms) enable it to recover from every imbalance caused by unreasonable human behaviour, the effects for human society can be fatal – first, the feedback mechanisms can be very turbulent and second, many of the people who hold power in our society remain convinced that there is essentially no problem (and harvested volumes could still be increased) though this will lead to a hard process of sobering up that future generations will probably not thank us for. The situation regarding logging in Slovakia is alarming. This is a major comment.			
Public	**on the whole of the draft amendment of the Forest Act** Comment 2 Throughout Act No 326/2005 on forests, as amended, we request that the phrase "forest care programme" be replaced by the phrase "forest management plan". Grounds: The document formally referred to as a forest care programme under the current wording of the Forest Act does not share the defining characteristics of similar documents (care programmes), which are considered, based on Sec. 54 of Act No 543/2002 on nature and landscape protection, to be nature protection documents. The phrase "forest care programme" seems more like a euphemism than a name that reflects reality and it may be for this reason that the term has not been adopted in practice. The natural way to refer to such a document, based on decades of practice, is the term "forest management plan", which is also much closer to the actual character of such a document. Its primary goal has always been to define the fundamental indicators, measures, frameworks and limits for the economic use of forests, naturally also considering the non-productive functions of forests. More than 70% of the forests in the Slovak Republic are classified as commercial forests under the Forest Act, meaning that their main function is to produce wood. In such forests, which make up the majority of forests by area, we see no relevant reason why a document setting out management measures related to timber production should be called a forest care programme. Art. 6(2) of the Legislative Rules of the Government of the Slovak Republic stipulates that an act must use accurate and uniform terminology. It can use only terms that are well-founded in law and in substance and correct legal terminology. If there is no suitable concept or term, one may be created by the use of another word or phrase with a suitable meaning. This is a major comment.	**O**	**N**	Disregarded

Public	**on the introductory provisions of the Forest Act** Comment 1 Before point 1, we request inclusion of the following point: "Forests are amongst the greatest assets of our country, one of the basic components of the environment and provide an irreplaceable source of wood for the national economy. Forests influence and improve the climate, water and soil conditions, provide natural habitats for many species of living organisms and their communities, preserve natural beauty and biodiversity, and are also support the health and recreation of the population. To support all these functions of forests, it is vital to protect the forests, forest land and forest trees; it is also necessary to adopt a systematic and well-planned approach for forest improvement based on differentiated management respecting the evidence from modern science and research, especially in the fields of biology, ecology, technology and economics, and the principles of sustainable development." Grounds: The forests Act lacks a summary of the reasons why there is a need for a law regulating the management of forests. Although the reasons set out in the comment may seem obvious to some, we consider it appropriate, considering the logical structure of the law, to briefly summarise the reasons why forests in Slovakia need to be protected and why reasonable and sustainable forest management is needed. Forests have irreplaceable functions (as the current wording of the Forest Act states) but only well-managed forests provide these functions in 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 (Act No 61/1977). This is a major comment.	**O**	**N**	Disregarded