

# LEGAL ASPECTS OF THE USE OF LAND DESIGNATED FOR FORESTRY IN UKRAINE

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**Annotation.** The aim of the work is to analyze the legal regime of forestry lands and existing mechanisms for forest restoration in Ukraine. The article examines legislative initiatives to regulate self-forested areas and conserve degraded lands as effective means of increasing forest cover and achieving an optimal rate of 20–22%, which corresponds to European standards.

The methodological basis of the study consists of general theoretical and empirical methods of scientific cognition. Dialectical, systemic, comparative-legal, formal-legal, and historical methods were applied. This approach made it possible to comprehensively analyze the legal aspects of the use of forestry land in Ukraine, assess its dual nature — as an object of land and forest legal relations — and propose ways to improve legislation.

**Results.** The study confirms that the legal regime for forestry land and the legal regime for forests are inextricably linked and form a single system. The use of these lands is a complex phenomenon regulated by the provisions of the Land and Forest Codes of Ukraine. The main task of forest management in Ukraine is to increase the level of forest cover, which currently stands at only about 18%. The paper proves that one of the key mechanisms for solving this problem is the afforestation of low-productive and degraded areas, as well as the legalization of natural self-afforestation. In particular, new legislative provisions are analyzed that allow for the acquisition of self-afforested land plots and changing their intended use.

**Conclusions.** The comprehensive use of legal instruments, including targeted afforestation, support for natural reforestation, and land conservation, is the most effective way to increase forest area. These approaches will not only raise forest cover to European standards, but will also promote sustainable forest management and address environmental issues.

**Key words:** forestry land; use and protection of forestry land; afforestation; forest cover in Ukraine; self-forested land plots; ownership rights to forestry land.

## 1. Introduction.

In today's world, legal issues related to the right to use natural resources are becoming increasingly important. The peculiarity of exercising, in particular, the right to use land, forests, water, and other natural resources lies in the fact that it is based on certain principles that form the basis of the legal regulation of relevant social relations. One such principle is the principle of comprehensive natural resource use, which is defined in legal literature as the use of several types of natural objects that are interrelated and located in a specific territory [1, p. 168]. This applies, among other things, to land that is the main means of production in forestry and forest vegetation (forest). According to Article 81 of the Forest Code of Ukraine, land intended for afforestation, in accordance with the Land Code of Ukraine, is classified as forestry land. At the same time, the legal regime of the latter lands is determined by the Land Code of Ukraine (Chapter 11).

## 2. Analysis of scientific publications.

The legal aspects of the use of forestry land in Ukraine have been the subject of scientific research by a number of prominent scholars. In particular, significant contributions to this field have been made

by: H.I. Balyuk, M.M. Zaveryukha, P.F. Kulinich, S.V. Sharapova, N.P. Chopik, and others. Their works thoroughly covered certain aspects of the legal regime of forest lands, their dual nature, and their role in the system of natural resource legislation.

However, despite the considerable attention paid to this topic, a comprehensive and comprehensive study of the current state of forest land use, taking into account the latest legislative changes (in particular, regarding self-forested areas and land conservation), has not yet been conducted. The relevance of our study is due to the need for a more in-depth study of these issues, particularly in the context of implementing policies to increase forest cover in Ukraine and achieving European standards for sustainable forest management.

**3. The purpose of the article** is to comprehensively analyze the legal regime of lands designated for forestry in Ukraine, focusing on their dual nature as objects of both land and forestry legal relations. The article aims to examine the current mechanisms of forest reproduction, including natural regeneration and afforestation, and to evaluate recent legislative changes concerning the legal status of spontaneously afforested lands and the conservation of degraded lands. The ultimate goal is to identify and substantiate effective legal instruments for increasing the forest area in Ukraine to achieve optimal forest cover and ensure sustainable forestry development.

#### **4. Presentation of the main material.**

The need for comprehensive use of forests and land was emphasized back in Soviet times in the Fundamentals of Forest Legislation of the USSR. However, legal literature notes that the relevant provisions enshrined in the aforementioned law were insufficient for their effective use [2, p. 51].

Forests, as one of the important components of the natural environment, together with its other elements, play a decisive role in the biosphere's accumulation of living matter. By retaining a number of chemical elements and water in the biosphere, it actively interacts with the troposphere and influences the oxygen and carbon balance. Forests, being the most complex plant communities, cover almost 15 percent of Ukraine's territory. The total area of forestry land and other categories of land covered by forests is 10.8 million hectares, of which 9.5 million hectares of Ukraine's territory is covered by forest vegetation [3, p. 136].

The forest cover of our country, i.e., the ratio of the territory covered by forests to the surface area of a given territory, is 15.9 percent. According to experts' calculations, the optimal forest cover of Ukraine should reach 20 percent. This means that more than 2 million hectares of new forests need to be created [4, p. 12].

Social relations regarding the use, reproduction, and protection of forests are regulated by the Constitution of Ukraine, the Law of Ukraine "On Environmental Protection," the Forest Code of Ukraine, and other regulatory and legal acts.

The Forest Code of Ukraine (Article 1) (as amended on February 8, 2006) defines a forest as a type of natural complex (ecosystem) in which trees and shrub vegetation are combined with corresponding soils, grass vegetation, animal life, microorganisms, and other natural components that are interconnected in their development and influence each other and the surrounding natural environment.

The concept of "forests" is inextricably linked to the definition of "forestry land," which Article 55 of the Land Code of Ukraine refers to as land covered with forest vegetation, as well as non-forest land not covered with forest vegetation that is provided and used for forestry purposes. In turn, the Forest Code of Ukraine defines that forestry land includes forest land on which forest plots are located, land occupied by agricultural land, water, swamps, structures, communications, low-productivity lands, etc., which are provided in accordance with the established procedure and used for forestry purposes. At the same time, the Forest Code of Ukraine emphasizes that the legal regime of forestry lands is determined by the land legislation of Ukraine.

In this case, we are talking about the peculiarities of a comprehensive approach to regulating land and forest relations by relevant norms that have "dual registration." Thus, forest law includes relations

and norms of land law that are aimed at regulating forest relations. At the same time, forest law norms are applied in land law. Thus, we are talking about the rules of “dual registration” legal provisions of the Land Code of Ukraine regarding the legal regime of forestry lands in forest law and the norms of the Forest Code of Ukraine regarding the legal regime of forestry lands in forest law and the norms of the Forest Code of Ukraine regarding the use of forestry lands in land law [5, pp. 110-111].

On forestry lands, land relations are aimed at forestry management, ensuring the cultivation, care, protection, and preservation of the forest fund.

The Land Code of Ukraine (Article 2) establishes that land relations arising from the use of subsoil, forests, waters, as well as flora and fauna, atmospheric air, are regulated by this code, regulatory legal acts on subsoil, forests, waters, flora and fauna, atmospheric air, if they do not contradict this code. Thus, special regulatory legal acts regulate land relations regarding the use of other natural resources organically connected with the land, provided that these acts do not contradict the Land Code of Ukraine. This fully applies, among other things, to the Forest Code of Ukraine, which regulates forest relations. Its Article 3 contains a slightly different formula concerning forest relations. This provision establishes that relations arising from the use of land, subsoil, and water, as well as relations concerning the protection, use, and reproduction of flora and fauna, are not regulated by the Forest Code of Ukraine but are regulated by relevant legislative acts.

Forests are renewable natural resources. They are restored naturally and artificially within the boundaries of the relevant lands. In the latter case, this involves processes in which humans are involved.

The Law of Ukraine “On Environmental Protection” contains a mandatory requirement for the reproduction of renewable natural resources by citizens, enterprises, institutions, and organizations when using natural resources, as part of preserving a healthy environment and greening material production, which is one of the basic principles in the field of environmental protection (clause “d” of Article 3).

These provisions directly apply to forests as one of the types of renewable natural resources that are organically linked to forestry lands and other categories of land in Ukraine.

The legal provisions regulating relations concerning forest restoration are concentrated in Chapter 14 of the Forest Code of Ukraine. They primarily define the purpose of forest restoration, which is as follows. First, forest restoration is carried out primarily with the aim of achieving optimal forest cover. In this case, we are talking about the need to create new plantations as quickly as possible using the most economically and environmentally accessible methods and technologies. Secondly, forest restoration should ensure the improvement of water conservation, soil protection, sanitary and hygienic, and other useful properties of forests and forest protection plantations. Thirdly, in the process of forest restoration, their quality should be improved, their productivity and biological stability should be increased. However, as mentioned above, the main direction of forest restoration is to achieve optimal forest cover, which in European countries is 20 percent.

It should be emphasized that forest restoration is one of the main responsibilities of forest users (Article 19 of the Forest Code of Ukraine), who, when managing forestry, must implement a set of measures for the conservation, protection, rational use, and expanded restoration of forests. Forest regeneration is carried out through restoration and afforestation, taking into account the natural and climatic conditions of each specific region of Ukraine (Article 79 of the Forest Code of Ukraine).

Ukrainian forestry legislation stipulates that afforestation shall be carried out by creating forest cultures or by promoting natural regeneration on land suitable for forest creation that is not covered by forest vegetation. At the same time, afforestation is permitted on all categories of land, subject to compliance with the requirements for the use of the land plot for its intended purpose.

It should be noted that Part 3 of Article 56 of the Land Code of Ukraine allows citizens and legal entities to acquire land plots for afforestation, as well as to own forests created through afforestation on land plots acquired in accordance with the established procedure.

The legal basis for forest restoration through reforestation or afforestation is determined not only by Ukrainian legislation, but also takes into account the provisions of international legal acts, in particular the Framework Convention on the Protection and Sustainable Development of the Carpathians of

May 22, 2003, ratified by the Law of Ukraine of April 7, 2004, and the European Landscape Convention of October 20, 2000, ratified by the Law of Ukraine of September 7, 2005.

The legal provisions regarding forest restoration in Ukraine are detailed in the Rules for Forest Restoration, approved by Resolution of the Cabinet of Ministers of Ukraine No. 303 of March 1, 2007 [6].

According to these Rules, forest restoration is carried out by permanent users and owners of forests on forest areas that were covered with forest vegetation (clearings, burnt areas, sparse forests, etc.) by restoring lands that were not previously occupied by forests, primarily those unsuitable for agricultural use or designated for the creation of linear protective forest plantations (clause 2). Thus, forest restoration is carried out in two main organizational and legal forms: restoration of forests on forestry lands in forest areas that were previously covered with forest vegetation, and afforestation, which is carried out on lands designated for the creation of forests that are not covered with forest vegetation. Lands designated for afforestation, in accordance with the Land Code of Ukraine, are classified as forestry lands.

Afforestation, as one of the means of strengthening land protection and improving the ecological situation, is aimed, among other things, at expanding the area of new forests, i.e., increasing the forest cover in our country.

The large-scale afforestation program of Ukraine, "Green Country," initiated by the Decree of the President of Ukraine of June 7, 2021, "On Certain Measures for the Preservation and Restoration of Forests," is of great importance for increasing forest cover [7]. In particular, as part of the President of Ukraine's initiative, it was planned to plant 1 billion trees in Ukraine over the next 3 years. Over the next 10 years, the forest area was to increase by 1 million hectares. It was planned to spend UAH 2 billion on the implementation of this initiative. However, full-scale Russian aggression prevented the implementation of the initiative.

The issue of the fate of self-seeded forests that have naturally formed on privately owned agricultural land is becoming increasingly important. This concerns, in particular, shared land that was subject to a moratorium and which, until July 1, 2021, owners were prohibited from alienating and changing the intended use of. During this time, these lands have become naturally forested. These are mainly low-yield and degraded lands that were of no particular value to agricultural production.

Until July 1, 2021, it was only possible to change the intended use of agricultural land, for example, from commercial agricultural production to forestry, if private land was purchased by the municipality or state for public needs. However, firstly, the law establishes a restrictive (exclusive) list of public needs; secondly, the lack of funds in the local budget that could be spent on the purchase of agricultural land from private owners made such a purchase virtually impossible.

Under current conditions, after the ban on changing the intended use of agricultural land was lifted, a private owner of a share of land can, at his own discretion, change its intended use, for example, to forestry land. The law stipulates that, to do so, the land owner must commission the development of a land management project for the allocation of the land plot. The approval of the land management project and the decision to change the intended use of the land plot are made by local self-government bodies or executive authorities.

Legal literature comprehensively analyzes the fate of self-seeded forests on agricultural land, emphasizing the advantages of these forests. Authors note, in particular, first, the natural origin of these forests. This means that they are much more resistant to adverse factors than artificially created forests; secondly, young trees are best at accumulating carbon from the atmosphere; thirdly, self-seeded forests often connect forest areas that were previously "broken up" by fields or pastures and had a negative impact on the life of the animals and plants living there; fourthly, the felling of self-seeded forests on low-productive sandy soils contributes to erosion and the loss of fertile soil layers, etc. [8, p. 25].

Provisions defining the legal regime for self-seeded lands have been enshrined in legislation. Thus, Law of Ukraine No. 2321-IX of June 20, 2022, Chapter 11 of the Land Code of Ukraine was supplemented with a separate Article 571, which contains the definition of a self-forested land plot, establishes the procedure for classifying a land plot as self-forested, and determines the moment from which a land plot is considered self-forested. In addition, the aforementioned Law grants citizens and legal entities the right to acquire land plots for afforestation. Furthermore, these entities may own forests created

through afforestation on land plots acquired through ownership, as well as self-forested plots on land plots acquired through ownership in accordance with the procedure established by law. This Law also establishes that individuals and legal entities have the right to classify land plots (including self-forested ones) that are in their ownership and belong to all categories of land (except for land designated for nature reserves and other nature conservation purposes) as forestry land, as well as to conduct forestry activities on them. This approach by the legislator is aimed at expanding the area of forestry land occupied by new forests. Ultimately, conditions are being created for increasing the forest cover of our country.

Finally, we would like to note that recently, in connection with amendments and additions to domestic land and land protection legislation, the promising form of expanding the area of forestry land through artificial afforestation of degraded, low-productive, and other lands in the process of their conservation, with subsequent classification as forested lands.

A systematic analysis of the current legal provisions regulating the relations arising in the process of implementing such a land conservation measure as land conservation indicates that attention should be paid to the following provisions. First, the essence of this measure, according to the law, is the temporary suspension or restriction of economic use of land for a specified period of time for the purpose of grassing, afforestation, or renaturalization. Second, land plots subject to mandatory conservation are listed in the Law of Ukraine "On Land Protection" (Article 1) as amended by Law of Ukraine No. 3050 of April 11, 2023 [9, c.]. Third, the mandatory nature of this land conservation measure is also indicated by the fact that executive authorities and local self-government bodies, which, in accordance with Article 122 of the Land Code of Ukraine, manage state and communal property, are obliged to take measures to conserve land plots (Article 172 of the Land Code). Fourthly, the law prohibits the transfer of state and communal land, which has been designated for conservation, into ownership and use for purposes not related to such conservation. Authorized executive bodies and local self-government bodies may grant state and municipal forestry enterprises the use of land plots specified in Article 51 of the Law of Ukraine "On Land Protection" for the implementation of measures for the conservation of land plots. Sixth, decisions of authorized bodies on land conservation may be made on their own initiative or at the request of bodies that exercise state control over the use and protection of land. Seventh, conservation is carried out in accordance with the developed land management documentation, namely, a working land management project for land conservation, which is developed: for state-owned and communal land – by decision of the authorized bodies, which, in accordance with Article 122 of the Land Code of Ukraine, decide on the transfer of land plots into ownership or use; for privately owned land – at the request of the owner of such a land plot.

The list of land plots that are subject to conservation in accordance with Article 51 of the Law of Ukraine "On Land Protection" (as amended on April 11, 2023) includes the following: 1) land plots used in violation of the land protection requirements established by this Law; 2) degraded lands, low-productive lands that do not have steppe, meadow, or forest vegetation cover, the economic use of which is environmentally hazardous and economically inefficient, as well as technologically polluted lands on which it is impossible to obtain environmentally friendly products, and where the presence of people on these land plots is dangerous to their health; 3) land plots contaminated with chemicals as a result of emergencies and/or armed aggression and hostilities during martial law; 4) land plots on which military engineering and/or fortification structures are located; 5) other degraded and low-yield land.

Land conservation through afforestation will, on the one hand, ensure the protection of the above-mentioned land plots and, on the other hand, create the necessary conditions for increasing the forest cover in Ukraine, i.e., expanding the area of land covered by new forests.

## 5. Conclusions.

The implementation of measures to promote natural forest regeneration, combined with artificial forest restoration and afforestation, primarily on forestry land and other categories of land, makes it possible to increase forest cover. Increasing forest cover is associated with the preservation and natural reforestation of land plots within private agricultural land. In addition, a promising legal form of increasing forest cover in Ukraine is the afforestation of degraded, low-productive, and



technologically polluted lands in the process of their conservation. In this case, we are talking about changing the intended use of land plots and transferring them to forestry land. The implementation of the latter two legal forms of increasing forest cover in Ukraine will make it possible to achieve the average European indicator.

### References:

1. Ekolohichne pravo: pidruchnyk / [A.P. Hetman, H.V. Anisimova, A.K. Sokolova ta in.]; za red. A.P. Hetmana. Kharkiv: Pravo.2019.
2. Zaveryukha, M.M. Pravove rehuliuвання vykorystannia ta okhorony lisiv v Ukraini: monohrafiia / M.M. Zaveriukha; NU OluA. Odesa: Yurydychna literatura. 2018. 228 p.
3. Naukovo-praktychnyi komentar Lisovoho kodeksu Ukrainy / za red. H.I. Baliuk. Kyiv: Yurinkom Inter, 2009. 368 p.
4. Galaur S. Z lisamy budemo zavzhdy, yakshcho zbalansuiemo ploshchi zemelnykh dilianok pid novilisy. *Zemlevporiadnyi visnyk*. 2020. No. 2. Pp. 12–15.
5. Zemelne pravo Ukrainy: pidruchnyk / V.I. Semchyk, P.F. Kulynych, M.V. Shulha. – K: Vyd. dim «In Yure». 2008. 600 p.
6. Pro zatverdzhennia Pravyl vidtvorennia lisiv: Postanova Kabinetu Ministriv Ukrainy No. 303 vid 01.03.2007. *Uriadovyi kurier*. No. 45 dated March 14, 2007.
7. Pro deiaki zakhody shchodo zberezhennta ta vidtvorennia lisiv: Ukaz Prezydenta Ukrainy No. 228/2021 07.06.2021. *Ofitsiinyi visnyk Ukrainy*. 2021. No. 46. Art. 2843.
8. Kalnichenko, A. Yaka dolia lisiv na zemli silskohospodarskoho pryznachennia? *Zemlevporiadnyi visnyk*. 2021. No. 12. Pp. 20–25.
9. Pro vnesennia zmin do Podatkovoho kodeksu Ukrainy ta inshykh zakonodavchykh aktiv Ukrainy shchodo zvilnennia vid splaty ekolohichnoho podatku, platy za zemliu ta podatku na nerukhome maino, vidminne vid zemelnoi dilianky, za znyshchene chy poshkodzhene nerukhome maino: Zakon Ukrainy No. 3050 11.04.2023. *Vidomosti Verkhovnoi Rady Ukrainy*. 2023. No. 68. Art. 237.

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