

ОТРАСЛЕВОЕ, ИНДУСТРИАЛЬНОЕ И КОРПОРАТИВНОЕ СТРАТЕГИРОВАНИЕ

Original article

Organizational, Economic, and Strategic Aspects of Capitalization of Multipurpose Forest Industries

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Abstract: *Introduction.* The present article forecasts the organizational, economic, and strategic aspects of the multifunctional forestry capitalization in the Kemerovo region aka Kuzbass. The authors analyzed the current Russian laws in order to answer the following question: is multi-purpose forest utilization able to ensure the rights and interests of all its participants, while providing legal means to resolve various related issues? *Study objects and methods.* The research featured the legal norms in the field of forest, wildlife, and subsoil utilization. The authors assessed their ability to guarantee sustainable use of natural resources while protecting the rights and legitimate interests of forest users. The study was based on general standard methods of cognition and special legal methods. *Results and discussion.* Hunting is regulated by hunting sector agreements. The Forest Code and the Hunting Law of the Russian Federation do not prohibit or restrict other types of forest utilization of hunting grounds. Most Western European countries link land ownership to hunting rights, which makes landowners liable for damage caused by hunting and obliged to protect the local fauna. *Conclusion.* Russian legislation does not provide for direct conciliation and compensation mechanisms in cases a part of hunting ground is used for other purposes, e.g. mining. Russian legislation needs legal termination procedures for hunting sector agreements and compensation rules in case a land plot was seized from hunting providers for subsoil use.

Keywords: hunting sector agreement, multipurpose forest utilization, regulatory framework

Citation: Prosekov AYu, Lisina NL. Organizational, Economic, and Strategic Aspects of Capitalization of Multipurpose Forest Industries. *Strategizing: Theory and Practice.* 2021;1(2):206–215. (In Russ.) <https://doi.org/10.21603/2782-2435-2021-1-2-206-215>

Received 16 September 2021. Reviewed 07 October 2021. Accepted 11 October 2021.

Оригинальная статья

УДК 639.1.02:639.1.07

Развитие организационно-экономических и стратегических аспектов капитализации отрасли многоцелевого использования лесов

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Аннотация: *Введение.* Статья посвящена прогнозированию развития капитализации отрасли мультифункционального лесопользования в Кемеровской области – Кузбассе с точки зрения организационно-экономических и стратегических аспектов. Целью исследования является анализ существующего в Российской Федерации законодательства по проблемам допустимости совмещения многоцелевого использования лесных участков, обеспечения законом прав и интересов всех участников процесса лесопользования, а также необходимости использования правовых средств для решения обозначенных вопросов. *Объекты и методы исследования.* Правовые нормы в сфере использования лесов, объектов животного мира и недр, а также правовая оценка их эффективности в современных условиях для обеспечения устойчивого природопользования, прав и законных интересов

лиц, использующих лесные участки для целей осуществления различных видов деятельности. В работе применялись общие, общенаучные и специально-правовые методы. *Результаты и их обсуждение.* Использование лесов для осуществления видов деятельности в сфере охотничьего хозяйства осуществляется на основании охотхозяйственных соглашений. Лесной кодекс Российской Федерации и Закон об охоте не содержат запретов или ограничений на осуществление иных видов деятельности по использованию лесов на лесных участках, охватывающих территорию охотничьих угодий. В большинстве стран Западной Европы право собственности на землю связано с реализацией права на охоту. Оно предусматривает ответственность за причиненный вред и выполняет обязанности по охране фаунистических ресурсов. *Выводы.* Российским законодательством не предусмотрены прямые согласительные и компенсационные механизмы в случае невозможности использования или затруднения в использовании охотничьего угодья по причине использования земельного или лесного участка, территориально входящего в охотничье угодье, для иных целей, в том числе для недропользования. Предлагается обозначить необходимость урегулирования процедур расторжения охотхозяйственного соглашения и определения возмещений в связи с изъятием земельного участка для нужд недропользования у охотпользователей.

Ключевые слова: охотхозяйственное соглашение, многоцелевое лесопользование, нормативно-правовая база

Цитирование: Prosekov A. Yu., Lisina N. L. Organizational, economic, and strategic aspects of capitalization of multipurpose forest industries // Стратегирование: теория и практика. 2021. Т. 1. № 2. С. 206–215. <https://doi.org/10.21603/2782-2435-2021-1-2-206-215>

Поступила в редакцию 16.09.2021. Прошла рецензирование 07.10.2021. Принята к печати 11.10.2021.

发展多功能林业资本化的组织、经济和战略方面

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摘要: 引言. 文章致力于从组织、经济和战略角度预测俄罗斯联邦多功能林业资本化的发展。研究的目的是分析俄罗斯联邦现有的关于允许结合多用途利用林地, 确保森林利用过程中所有参与者的合法权益等问题的立法, 以及利用法律手段解决这些问题的必要性。**研究对象和方法.** 森林、野生动物和矿产资源领域的法律法规, 以及对其现代条件下有效性的法律评估, 目的是确保可持续利用自然资源、保障目的不同的林地使用者的合法权益。在工作中使用了一般方法、一般科学方法和特殊的法律手段。**结果及讨论.** 已经确定, 利用森林开展狩猎活动基于狩猎协议。俄罗斯联邦森林法和狩猎法中没有禁止或限制在狩猎场所在林地进行其他类型的森林利用活动。在大多数西欧国家, 土地所有权与行使狩猎权有关。规定了对所造成损害的责任, 并履行对动物资源保护的义务。**结论.** 俄罗斯立法没有规定土地或林区被用于其他目的——包括利用矿产——而无法使用或妨碍使用狩猎场的情况下的直接调解和赔偿机制。建议有必要规范终止狩猎协议的程序, 并确定与征用狩猎使用者手中的土地满足矿产利用的需要有关的补偿。

关键词: 狩猎协议、多功能林业、监管框架

编辑部收到稿件的日期: 2021年9月16日 评审日期: 2021年10月07日 接受发表的日期: 2021年10月11日

INTRODUCTION

Problems of forest management have been the focus of scientific attention for some time now, e.g. such issues as reclamation, deficit of forest resources, poor biosphere functions of forest ecosystems, etc.¹

Multifunctional forest management is a relevant issue of science and practice, both in Russia and abroad. Forest complex is an economically stable and globally competitive group of industries that meets the country's domestic

¹ Global Forest Resources Assessment 2020 [Internet]. [cited 2021 Aug 10]. Available from: <https://www.fao.org/forest-resources-assessment/2020/en/>.

demand. This group is embedded in the global market and the international labor division as long as it provides sustainable reproduction of forests and preserves their role in the global biosphere.

Many foreign and domestic scientists study the problems and prospects of multi-resource forest management^{2,3,4,5}. For example, C. Deng *et al.* assessed the compensation standard for forest ecological services based on the multifunctionality of the forest and net present value analysis⁶. When managed as ecological areas, most forests bring economic losses to their managers but also provide great ecological benefits to the population.

Economically, the multipurpose utilization of forest resources means that any managerial decisions on their development, use, reproduction, and protection should be based on the cumulative results of the use of timber, non-timber, and social resources. Resource integration is an important aspect of forest management and requires a fundamental revision of scientific views on the forest economy and organization⁷. Yu.P. Likhatskiy *et al.* analyzed a number of theoretical concepts of rational multipurpose forest use in Russia and abroad⁸. The content analysis showed that a sustainable approach to forest management requires innovative strategies to conserve biodiversity and maintain a balance between multipurpose forest management and healthy ecosystems.

In practice, sustainable forest utilization goes hand in hand with sustainable forest management. Contemporary forms of sustainable forest utilization depend on the prompt determination of the value of forest resources. G.A. Preshkin

et al. claim that any forest ecosystem is a complex biological structure⁹. Sustainable forest management means that the use value of forest benefits can be extracted from ecosystems and reproduced an infinite number of times. The principles of the new economy and forest market policy rely on a multicriteria model of the system dynamics of the value formation of forest benefits

A practice-oriented study by E.F. Gerts *et al.* considers forestry intensification as a means of complex mechanization of forestry and logging, which economically justifies purchasing additional forestry and logging equipment, even in small volumes¹⁰.

A.V. Mekhrentsev *et al.* focused on the strategic approach to the system crisis of the Russian forest sector, which resulted from an ineffective raw material orientation of timber and paper export¹¹. They believe that the domestic forest sector stopped being a single complex and lack effective business structures capable of making large-scale organizational and technological decisions that could stop the stagnation of forestry and the forest industry. If Russia wants to switch to innovative planning and improve its forest management, it needs to resolve a whole complex of ecological and economic problems of forest management and reforestation.

I.I. Ivanitskaya *et al.* studied the economic assessment of forest ecosystems and introduced a new approach to calculating the potential of forest ecosystems based on the territorial differential assimilation lease¹². Assimilation lease received from the use of forest capital can improve the current budget and development budget, the latter being a long-term regional fund for the targeted management

² Bai Y, Liu M, Yang L. Calculation of ecological compensation standards for arable land based on the value flow of support services. *Land*. 2021;10(7):1–16. <https://doi.org/10.3390/land10070719>.

³ Liu M, Bai Y, Yang L, Wang B. Calculation of ecological compensation standards for the kuancheng traditional chestnut cultivation system. *Journal of Resources and Ecology*. 2021;12(4):471–479. <https://doi.org/10.5814/j.issn.1674-764x.2021.04.005>.

⁴ Lei M, Yuan X-Y, Yao X-Y. Synthesize dual goals: A study on China's ecological poverty alleviation system. *Journal of Integrative Agriculture*. 2021;20(4):1042–1059. [https://doi.org/10.1016/S2095-3119\(21\)63635-3](https://doi.org/10.1016/S2095-3119(21)63635-3).

⁵ Petrov VN. Organizatsiya, planirovanie i upravlenie v lesnom khozyaystve [Organization, planning, and management in forestry]. St. Petersburg: Nauka; 2010. 414 p. (In Russ.)

⁶ Deng C, Zhang S, Lu Y, Li Q. Determining the ecological compensation standard based on forest multifunction evaluation and financial net present value analysis: A case study in Southwestern Guangxi, China. *Journal of Sustainable Forestry*. 2020;3(7):730–749. <https://doi.org/10.1080/10549811.2020.1723644>.

⁷ Pisarenko AI, Strakhov VV. O lesnoy politike Rossii [The forest policy of Russia]. Moscow: Yurisprudentsiya; 2012. 599 p. (In Russ.)

⁸ Likhatskiy YuP, Chemykh AS, Kharin SV. Theoretical concepts of multi-purpose, rational continuous use of forests in Russia and abroad. *Forest Engineering Journal*. 2017;7(4):100–108. (In Russ.) https://doi.org/10.12737/article_5a3ced06071999.40465463.

⁹ Preshkin GA, Rusin KI. Model of system dynamics for forest product cost forming. *Agrarian Bulletin of the Urals*. 2016;144(2):41–46. (In Russ.)

¹⁰ Gerts EF, Mekhrentsev AV, Pobedinsky VV, Terinov NN, Urazova AF. Improving the efficiency of multifunctional machines for intensive forestry. *Russian Forestry Journal*. 2021;379(1):138–149. (In Russ.) <https://doi.org/10.37482/0536-1036-2021-1-138-149>.

¹¹ Mekhrentsev AV, Preshkin GA, Rusin KI, Ivanova NV, Mezenova VV. Forestry project management as an alternative to the common practice of forestry regulation. *Agrarian Bulletin of the Urals*. 2016;153(11):107–111. (In Russ.)

¹² Ivanytskaya II, Levina IV. New approaches to economic assessment of forest potential. *Regional problems of transforming the economy*. 2020;114(4):27–33. (In Russ.)

and development of forestry and a financial basis for the development of forest resource potential.

T.V. Kashtelyan analyzed publications on the forestry, timber industry, and land lease¹³. He defined the category of land lease as part of forest economy and classified it by the type of activity. At the present stage of development, timber and industries are defined mostly by subjective values. The lease component of the institutional relations within the domestic forest industry complex can serve as a tool of modernization.

N.V. Lukina *et al.* studied the relationship between various ecosystem functions of forests¹⁴. The team assessed the impact of biodiversity on the climate-regulating functions of forests as part of sustainable forest management in the context of global climate change. They listed numerous effects of certain plant and animal ecosystem engineers on the ecosystem functions of forests, including climate-regulating ones. The scientists found it especially difficult to assess and forecast interrelationships (synergies or compromises) between climate-regulating and other ecosystem functions of forests with different biodiversity. The problem is that these functions depend not only on natural development but on the combined impact of various natural and anthropogenic factors, including climate change, fires, and forest management. From the standpoint of consistency, N.M. Bolshakov *et al.* introduced a new system approach to forest management intensification, which consists in multiple use of the entire complex of forest resources and services in the development of one and the same leased forest area¹⁵.

Forests provide options for multi-purpose utilization. According to Article 25 of the Forest Code of the Russian Federation, forests can be used for harvesting timber, turpentine, non-timber resources, foods, and medicinal plants, as well as for farming, hunting, geological exploration, mining, wood processing, etc.¹⁶. In practice, this Article gives rise to many disputes between forest providers and state authorities, e.g. if one provider uses

the same forest area for several purposes, or if several providers use it for the same or different purposes.

For example, a certain forest area exploited by a legal hunting provider for a certain period of time is leased to another entity for mining purposes, or even transferred by an authorized body to a different land category, e.g. industry, energy, transport, communications, radio broadcasting, television, informatics, space activities, defense, security, etc., hereinafter referred to as industrial and other special purposes.

The present research featured a number of questions a situation like that inevitably triggers: can such types of forest utilization be combined? Does the law insure the rights and interests of all participants in the forest utilization? The need to use legal means to resolve the above issues is a separate question.

STUDY OBJECTS AND METHODS

The research featured legal norms in the field of forest, wildlife, and subsoil utilization, as well as the methods of the legal assessment of their efficiency in ensuring both sustainable use of natural resources and the rights and legitimate interests of hunting providers and mining companies. The study was based on the concept of the forest as both an ecological system and a natural resource. According to this approach, any kind of forest exploitation must follow the principles of sustainable forest management, which means that the biological diversity and potential of forests should be preserved and increased in order to ensure the right of all citizens to a healthy environment and not to damage the environment and human health. The research relied on general and specific scientific methods of cognition, as well as on some special legal methods, such as formal and comparative legal analysis, interpretation of law, legal modeling, legal forecasting, etc.

RESULTS AND DISCUSSION

The Forest Code of the Russian Federation (Article 11, Clause 7) states that the relations between citizens and forest

¹³ Kashtelyan TV. Rental relations in forestry: institutional positions. Proceedings of BSTU. Issue 5. Economics and Management. 2018;214(2):46–51. (In Russ.)

¹⁴ Lukina NV, Geraskina AP, Gornov AV, Shevchenko NE, Kuprin AV, Chernov TI, et al. Biodiversity and climate regulating functions of forests: Current issues and prospects for research. Forest Science Issues. 2020;3(4):1–90. (In Russ.) <https://doi.org/10.31509/2658-607x-2020-3-4-1-90>.

¹⁵ Bol'shakov NM, Ivanitskaya II, Belozyorova NV. Novyy podkhod k lesopol'zovaniyu [A new approach to forest management]. Regional Economics: Theory and Practice. 2009;(36):2–12. (In Russ.)

¹⁶ The Forest Code of the Russian Federation of December 04, 2006 № 200-FZ [Internet]. [cited 2021 Aug 10]. Available from: https://www.consultant.ru/document/cons_doc_LAW_64299/.

environment be regulated by forest legislation, hunting legislation, and the laws on conservation of hunting resources. Article 36 of the same Code regulates the procedure for the use of forests in certain types of hunting activities. Forest utilization for hunting activities is based on hunting sector agreements, both with and without land provision.

Forests can be used for hunting activities without providing forest plots if these activities do not include logging or constructing hunting infrastructure. An authorized federal executive body specifies the rules for forest exploitation for hunting purposes and develops the list of cases when forests can be used for hunting without land provision.

The Ministry of Natural Resources issued Order No. 661 (December 12, 2017). It contained Rules for hunting utilization of forests and the list of cases when forests can be used for hunting activities without land provision¹⁷. The list includes the following cases:

1) commercial hunting, amateur and sports hunting, hunting for research and education purposes, regulation of the number of hunting resources, acclimatization of game species, reintroduction and hybridization of hunting resources, keeping and breeding of game animals in semi-free conditions or in artificial habitats;

2) traditional livelihoods and economic activities of indigenous small-numbered peoples of the North, Siberia, and the Far East of the Russian Federation, as well as other permanent residents of these territories who rely on hunting as their traditional economic activity;

3) biotechnical measures provided for by the Federal Law of July 24, 2009, No. 209-FZ "Hunting, preservation of hunting resources, and amending legislative acts of the Russian Federation"¹⁸.

In other cases, hunting activities presuppose provision of state and municipal land plots to legal entities and individual entrepreneurs according to the rules of Article 9 of the Forest Code of the Russian Federation. Forestry lease is the most common right executed in such cases.

According to Article 9, the right to lease a forest area follows the laws of civil legislation and the Land Code of the Russian Federation, taking into account the specifics

established by the Forest Code of the Russian Federation and other federal laws¹⁹. The Land Code of the Russian Federation allows hunting activities on various types of lands, e.g. on agricultural lands (Article 78, Clause 3), defense and security lands (Article 93, Clause 5.1), and reserve lands (Article 103, Clause 2). However, the Land Code does not mention hunting on forest lands, but the Forest Code does (see Article 36).

Hunting activities and hunting economy are regulated by the Law on Hunting. Article 7 of the Law on Hunting says that if the legal regime of a particular land plot allows hunting activities, the land plot can be part of hunting grounds.

The Law on Hunting distinguishes two types of hunting grounds. The first type includes the hunting grounds used by legal entities and individual entrepreneurs. They are referred to as designated, or fixed, hunting grounds. The second type includes areas used by individuals who execute their right of free stay for hunting purposes. These are public hunting grounds. This classification affects the legal basis and conditions for land exploitation.

According to the Hunting Law, the minimal allowable area of public hunting grounds cannot fall below twenty percent of the total hunting grounds in the region. In practice, this requirement is often violated, and the actual area of most public hunting grounds is much below the minimal level. In fact, the average area of public hunting grounds per region varies from 1.17 to 15% of the total area of hunting grounds. Some constituent entities, on the contrary, exceed the limit. For example, in the Kemerovo region, the area of public hunting grounds is 2031.6 thousand hectares, which is 26.6% of the total area of all hunting grounds.

Neither the Forest Code, nor the Hunting Law prohibits or restricts other types of utilization of forest areas that are part of hunting grounds. On the contrary, the principle of multipurpose forest use means that hunting grounds are open not only to various types of hunting activities, but also to other types of forest utilization provided for by the Forest Code of the Russian Federation.

In practice, the current federal legislation allows one forest area to be leased to several forest users for various purposes

¹⁷ Order of the Ministry of Natural Resources and Environment of the Russian Federation of December 12, 2017 № 661 "On approval of the Rules for the use of forests for hunting and the List of cases of using forests for hunting purposes without forest land provision" [Internet]. [cited 2021 Aug 10]. Available from: <https://publication.pravo.gov.ru/Document/View/0001201803230015>.

¹⁸ Federal Law "On hunting and conservation of hunting resources and on amendments to certain legislative acts of the Russian Federation" of July 24, 2009 № 209-FZ [Internet]. [cited 2021 Aug 10]. Available from: https://www.consultant.ru/document/cons_doc_LAW_89923/.

¹⁹ The Land Code of the Russian Federation: Federal Law of October 25, 2001 № 136-FZ [Internet]. [cited 2021 Aug 10]. Available from: https://www.consultant.ru/document/cons_doc_LAW_33773/.

of forest exploitation. Therefore, the forest area used for hunting purposes can be provided for geological exploration and mining. This triggers the problem of legal coordination that would ensure the interests of all forest users operating in the same forest area, but for different purposes.

According to Article 43 of the Forest Code, geological exploration and mining on forest grounds may or may not involve forest land provision and easement.

If geological exploration does not entail logging or capital constructions, no forest land provision or easement is required. Without land provision and easements, a forest area can be used to provide the safety of citizens and conditions for the operation of facilities of geological exploration and mining. The procedure for geological exploration and mining on forest areas was approved by Order No. 515 of the Federal Forestry Agency issued on December 27, 2010²⁰.

However, the procedure does not coordinate the interests of those in geological exploration and mining and, for example, hunting providers. This legislation gap has obvious negative consequences, e.g. deterioration, reduction, and scattering of wildlife habitats. It contradicts the principles of sustainable existence and sustainable use of hunting resources and destroys their biological diversity. Practice shows that the most effective hunting management is conducted by commercial organizations

and individual entrepreneurs who invest in hunting, biotechnics, and reproduction while fighting illegal hunting.

Russian state programs in the field of preservation and reproduction of wildlife and forests stress the importance of concluding hunting sector agreements as a legal way to attract investment in the hunting economy, improve its efficiency, and increase the population of game animals.

The Kemerovo region is no exception. Its program for “Preservation, reproduction, and utilization of forests and wildlife of Kuzbass in 2017–2024” was approved by the Resolution of the Kemerovo Region Administration Board in November, 2016 (No. 430). The strategy recognizes the key role of hunting agreements in attracting investment in the hunting economy, increasing its efficiency, reducing poaching and, as a consequence, increasing the regional game population²¹.

Fig. 1 illustrates a comparative analysis of forest cover in public and designated hunting grounds in various municipal districts of the Kemerovo region. In most districts, designated hunting grounds appeared to have a greater afforestation, which means larger animal populations and greater species diversity.

Article 4 of the Hunting Law regulates the conditions and procedure for hunting agreements with legal entities and individual entrepreneurs. Their duration varies from 20 to 49 years, which guarantees a legal entity or an individual

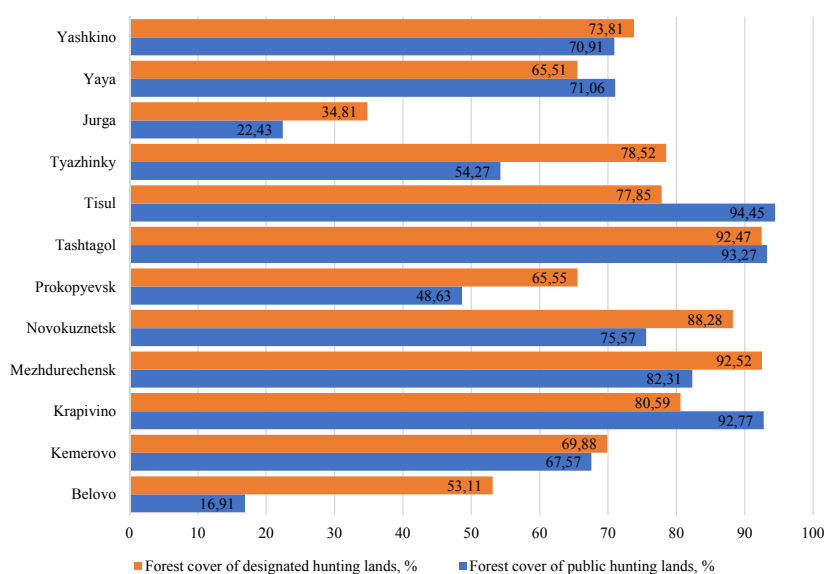


Fig. 1. Forest cover of public and designated hunting grounds in various municipal districts of the Kemerovo region
Рис. 1. Анализ степени зеленности общедоступных и закрепленных охотничьих угодий отдельных муниципальных районов Кемеровской области – Кузбасса

²⁰ Order of the Federal Forestry Agency of December 27, 2010 № 515 “On the approval of the Procedure for the use of forests for geological exploration and mining” [Internet]. [cited 2021 Aug 10]. Available from: <https://legalacts.ru/doc/prikaz-rosleskhoza-ot-27122010-n-515-ob/>.

²¹ State Program of the Kemerovo region for 2017–2024, November 08, 2016, № 430 “Preservation, reproduction, and utilization of forests and wildlife of Kuzbass” [Internet]. [cited 2021 Aug 10]. Available from: <https://bulleten-kuzbass.ru/bulletin/58081>.

entrepreneur the sustainability of their right to use the forest area in which they plan to invest, including the right to extract hunting resources from the hunting grounds.

As follows from Part 2 of Article 27 of the Hunting Law, one party of the hunting sector agreement (a legal entity or an individual entrepreneur) undertakes to take measures to preserve hunting resources and their habitat and create a hunting infrastructure, while the other party (an executive body of a constituent entity of the Russian Federation) undertakes to lease land and forest plots for the period of hunting agreement, as well as the right to extract hunting resources from the hunting grounds.

According to Clause 1, Part 4 of Article 27 of the Hunting Law, the hunting sector agreement includes information about the location, boundaries, and area of the hunting grounds, about the leasing land and forest plots within its boundaries, including those used for geological exploration and mining. This law contains no provision that the lease of land or forest plots within the hunting grounds to other users and for other nature utilization purposes can serve as a reason to abort the auction or result in the loss of the hunting agreement.

As judicial practice shows with reference to the Order of the Ministry of Natural Resources of Russia, the legal entity or individual entrepreneur are not obliged to provide the description of the boundaries of the hunting grounds^{22,23}. As a result, a local authorized executive body has to act as a party to the hunting agreement and organize the auction. It collects information about other possible users of natural resources on the hunting area. The question remains whether the presence of other users is a reason to terminate the auction procedures or the hunting agreement.

The boundaries of hunting grounds are to be stated in the Unified State Register of Real Estate²⁴. However, if the land or forest plot overlaps with hunting grounds or geological or mining allotments, this fact cannot terminate the registration procedure. Information about the types, location, boundaries, ownership, and state of hunting

grounds is also to be found in the State Hunting Register (see Article 37 of the Law on Hunting).

Part 5 of Article 27 of the Hunting Law also states the stability of the law within the framework of hunting agreement. The hunting agreement can be terminated upon its expiration, by mutual agreement of the parties, or by court.

However, the legal instrument of hunting sector agreements ceases to fulfill its purpose in case the designated plots are used for geological exploration and mining by other economic entities.

The Law of the Russian Federation “On Subsoil” provides for the possibility of leasing land and forest plots for subsoil use (Article 25.1)²⁵. However, it does not establish any compensatory legal norms in case the subsoil use is to take place on the hunting grounds leased under a hunting management agreement. According to Article 25.2 of the Law “On Subsoil”, land or forest plots can be seized for state or municipal needs of subsoil use.

Chapter VII.1 of the Land Code of the Russian Federation regulates the procedure for seizure of land plots for state and municipal needs, including subsoil use. The land user is to be warned in advance and shall sign an agreement on the seizure of the land plot, which presupposes a financial compensation. Theoretically, the legal norms of this chapter can be applied to cases of termination of the right to lease a land plot used within a hunting sector agreement. However, the legal nature of the hunting agreement, its subject matter, rights and obligations of the parties, and its complex nature clearly demonstrate a need for a special regulation of the termination procedure and compensation rules (losses or lost profits), should the land plot be seized for subsoil use.

The Hunting Law does not state that the seizure of a land plot for state or municipal needs can serve as a basis for terminating the hunting sector agreement. Therefore, if the parties fail to reach an agreement on terminating the hunting sector contract, the decision must be carried out in court.

²² Order of the Ministry of Natural Resources of the Russian Federation of August 06, 2010 № 306 “On approval of the requirements for the description of the boundaries of hunting grounds” [Internet]. [cited 2021 Aug 10]. Available from: <https://docs.cntd.ru/document/902230552?marker=6500IL>.

²³ Appeal determination of the Judicial Board for Administrative Cases of the Supreme Court of the Russian Federation of May 22, 2018, № 10-APG18-2 “Cancellation of the decision of the Kirov Regional Court of December 25, 2017, and invalidation of Paragraph 3 of Subparagraph 2.6.2, the sample application form for concluding a hunting agreement without an auction, which is an appendix to the administrative regulations for the provision by the Ministry of Environmental Protection of the Kirov region of the state service for concluding hunting agreements without an auction for the right to conclude hunting agreements, approved by the Decree of the Governor of the Kirov Region of September 04, 2012, № 109” [Internet]. [cited 2021 Aug 10]. Available from: <https://www.consultant.ru/>.

²⁴ Federal Law of July 13, 2015 № 218-FZ “On the state registration of real estate” [Internet]. [cited 2021 Aug 10]. Available from: https://www.consultant.ru/document/cons_doc_LAW_182661/.

²⁵ Federal Law of February 21, 1992 № 2395-1 “On mineral resources” [Internet]. [cited 2021 Aug 10]. Available from: https://www.consultant.ru/document/cons_doc_LAW_343/.

Currently, an early termination of hunting agreements is carried out in court in case its terms are significantly or repeatedly violated and the other party is deprived of what it had the right to count on when concluding the agreement. Articles 450 and 619 of the Civil Code of the Russian Federation provide the grounds for terminating the agreement in court at the request of one of the parties²⁶. However, the courts emphasize that the termination of the hunting sector agreement is an extreme measure when the violations are so serious that contractual relations become impractical or unprofitable from the standpoint of public entities²⁷.

Article 47 of the Federal Law “On Wildlife” states that the right to wildlife utilization can be terminated if the land or water area is used for state needs that make wildlife utilization impossible²⁸. Despite the incorrectness of the legal terms cited above, the Article raises the question whether this basis can be applied for the termination of the right to wildlife utilization under a hunting sector agreement. The application of this article to such cases is controversial because they are regulated by the legal norms of the Hunting Law. However, before the adoption of the Hunting Law, certain regional laws (e.g., in the Leningrad Region, the Sverdlovsk Region, the Khanty-Mansiysk Autonomous Okrug, etc.) regulated the termination of the rights to use wildlife objects and established certain guarantees for hunting users in case the land was seized for state needs. The guarantees included provision of equivalent hunting grounds, financial compensations, return of lost profits, etc.

The transfer of forest lands to industrial and other special purpose lands cannot serve as reason for terminating the hunting sector agreement. Of course, the decision to transfer forest lands that contain hunting grounds to lands intended for mining can affect the interests of hunting providers and create obstacles to the long-term use of hunting grounds under a hunting agreement. Unfortunately, the federal law shows numerous flaws regarding such cases. According to Clause 5 of Part 2 of Article 2 of the Federal Law “On the category transfer of lands or land plots”, the consent of the owner of the land plot to transfer it from

one category to another is to be attached to the transfer application²⁹. However, the discrepancy between the legal concepts of “land owner”, “hunting grounds”, and “land plot” means that no consent from the owner of the hunting grounds is required if there is no document confirming the provision of the land plot for hunting purposes.

In Western Europe, land ownership is usually inseparable from the hunting right. Conversely, it is the right to land that provides the legal opportunity to hunt, the land owner being responsible for the damage caused and wildlife protection. One of the conditions for the realization of the right to hunt is the provision of a land plot for hunting, and hence one can demand compensation in case of inconvenience. This experience could serve as a methodological basis for improving the domestic legislation.

CONCLUSION

Serious legal problems and infringement of the rights of some forest users come from the principle of multipurpose forest utilization. Moreover, legal regulation is different for the exploitation of land and land plots, forests and forest plots, subsoil and wildlife, etc. They are independent objects of ownership and rights and lack connection with the hunting rights whatsoever.

Russian legislation does not provide for direct conciliation and compensation mechanisms in case a hunting area cannot be used for hunting purposes because a land or forest plot within the hunting grounds is used for other purposes, e.g. mining. Legislative and law enforcement practices show the need to improve legal regulation on the federal level. It needs clear priority uses of land and forest plots that would exclude simultaneous implementation of incompatible types of nature exploitation within the boundaries of one land or forest plot.

The federal law of the Russian Federation needs special regulation procedures for terminating hunting sector agreements and determining compensation, e.g. losses or lost profits, if a land plot is seized from hunting providers for subsoil exploration or mining. Before appropriate

²⁶ Resolution of the Arbitration Court of the North-Western District of December 04, 2017 case № A52-340/2017 [Internet]. [cited 2021 Aug 10]. Available from: <https://www.consultant.ru/>.

²⁷ Resolution of the Twelfth Arbitration Court of Appeal of June 07, 2017 № 12AP-3660/2017, case № A57-30339/2016 “On the termination of the hunting agreement” [Internet]. [cited 2021 Aug 10]. Available from: <https://www.consultant.ru/>.

²⁸ Federal Law of April 24, 1995 № 52-FZ “On wildlife” [Internet]. [cited 2021 Aug 10]. Available from: http://www.consultant.ru/document/cons_doc_LAW_6542/.

²⁹ Federal Law of December 21, 2004 № 172-FZ “On the category transfer of land or land plots” [Internet]. [cited 2021 Aug 10]. Available from: https://www.consultant.ru/document/cons_doc_LAW_50874/.

changes are made to the federal law, constituent entities of the Russian Federation should make a list of hunting grounds with priority for hunting economy that have

significant ecological, economic, and social value for the region and define their boundaries and area

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- CONTRIBUTION: A.Yu. Prosekov developed the research concept, analyzed the results, and proofread the article. N.L. Lisina collected, analyzed, and interpreted the data and drafted the manuscript.
- CONFLICT OF INTERESTS: The author declared no potential conflicts of interests regarding the research, authorship, and/or publication of this article
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