

Protection and Management of Biodiversity in Georgia

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1. Legal Framework for Biodiversity Protection and Management in Georgia

The foundations of the Georgian legislation on environmental protection are laid out by the Constitution on Georgia, where Article #37 states: "Everyone shall have the right to live in healthy environment and enjoy natural and cultural surroundings. Everyone shall be obliged to care for natural and cultural environment" (Paragraph #3) and "With the view of ensuring safe environment, in accordance with ecological and economic interests of society, with due regard to the interests of the current and future generations the state shall guarantee the protection of environment and the rational use of nature" (Paragraph #4).

The following laws regarding the protection and use of biodiversity have been adopted in Georgia: Law on Environmental Protection, Law on the System of Protected Areas, Law on the Fauna, Law on the Red List and Red Book of Georgia, the Georgian Forest Code, Law on the Licenses and Permits, and other normative acts.

In 1998 in order to implement the aforementioned provisions of the Constitution, **Law of Georgia on Environmental Protection** was adopted, which encompasses the following topics: protection of environment from harmful impact; improvement of the quality of environment; sustainable development and sustainable use of natural resources; maintenance of biological diversity and ecological balance; protection of unique landscapes and ecosystems; taking certain measures towards solution of global environmental problems; definition of the rights and obligations of citizens in the sphere of environmental protection; environmental education.

Law of Georgia on the System of Protected Areas (1996) defines the aspects of foundation, development and functioning of protected areas; establishes the system of bodies responsible for management on different levels and defines the activities permitted on the areas of various categories.

Law of Georgia on the Fauna (1996) regulates legal relations with regards to protection and use of objects of the fauna. Apart from protection of the wild fauna directly, the Law envisages protection of their natural habitat, migration routes, and breeding grounds, ensures sustainable development of wild fauna, and establishes a legal foundation for its *in-situ* and *ex-situ* conservation.

Forest Code of Georgia (1999) regulates legal relations with regards to maintenance, protection, restoration, and use of the Georgian forest fund and its resources. The Forest Code defines the notion of the state forest fund, which means the whole of the lands and its resources (forests) it owns under the legislation. The Code also regulates the right of ownership on the forest fund. It is noteworthy that granting of a forest under a private ownership is permitted. At the time of the Code's adoption, the entire forest fund is declared as the state property, while the process of its denationalization should be regulated by relevant legislation, the necessity of establishment of which is laid out in the Article #9 of the Code. One of the central objectives of the Code is protection of the forest fund of Georgia, preservation of the uniqueness of intact nature, protection of relict, endemic and other precious types of plants.

In June 2003 Parliament of Georgia adopted the **Law on Red List and Red Book of Georgia**. The Law provides legal basis for juridical definitions of the Georgian "red list" and "red book" (which has the value of recommendation and methodological character) of critically endangered species of wild animals and plants. The Law also defines the structure of the "red list," the procedures to determine species for inclusion into the list, and the procedures for elaboration, adoption and renewal (revision) of the draft list. Said Law also regulates the issues related to the "red book" of critically endangered species, protection of critically endangered species, their use, and planning and financing of measures for their restoration and preservation.

Law of Georgia on Licenses and Permits entered into force from 4 August, 2005. According to this law several licenses and Permit are directly related to biodiversity: general license for forest use, special license for wood-processing and special license to establish a hunting farm, license for fishing, license for use of cone of fir, and galanthus bulbs and/or cyclamen tubers, which are included in the appendices of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), license for hunting, and Permit for export, import, re-export and introduction-via-sea of the species listed in the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), their parts and derivatives.

Deriving from requirements of this law, other normative acts of Georgia should come in conformity with it. During the transitional period issues are regulated by resolutions of government.

Strategy and Plan of Actions of Protection of Biodiversity – this document entered into force by a decision of the government of Georgia of 19 February 2005.

The Convention on Biological Diversity obliges all parties to elaborate appropriate national documents, which should define the policy and concrete plan of protection of biodiversity in the state. Existence of such a document is

considered one of the necessary conditions for protection and rational use of a country's biodiversity. Accordingly, approval of the national strategy and plan of actions of protection of biodiversity constitutes a central stage of Georgia's implementation of commitments envisaged by the Convention and represents one of the main conditions for sustainable development. Its implementation requires mobilization of the scientific potential existing in the country and a close cooperation among governmental, non-governmental, and business sectors. Success will be impossible to achieve without an all-out societal support. It will also be necessary to cooperate with such sectors as agriculture, tourism, energy, urbanization, etc.

The document defines the strategy of protection and rational use of biodiversity of the country (excluding the Black Sea waters) for the next 10 years and concrete activities for a five-year period. It is a framework document based on which a coordinated action in the field of conservation of biodiversity should be carried out in Georgia.

Bearing in mind the current state and problems of biodiversity in Georgia and the threats that influence it, nine main issues have been singled out, which encompass virtually all aspects of protection and rational use of natural resources. However, it was also taken into account that each of them closely relates to the others, and accordingly certain overlaps exist with regards to more complex concrete issues. Those main issues are: protected areas; species and habitats; agricultural biodiversity; hunting and fishing; monitoring of biodiversity; biosafety; environmental education; public awareness and public participation; financial-economic program; sustainable forest economy; legislative aspects.

The Georgian strategy of biodiversity is planned for a 10-year period, while actions are for a five-year period. It is implied that elaboration of a new action plan will be needed after five years, bearing in mind the concrete situation and results achieved by then.

The Georgian strategy of conservation of biodiversity is based on the principles of Pan-European Biological and Landscape Diversity Strategy. Apart from this, additional principles were defined in the course of elaborating the document.

The document lays out a vision for the future: 10 years from now Georgia will be a country with sustainable biological diversity; political, social and economic conditions will be created that favor rational use of natural resources and fair distribution of the benefits.

Aside from the above-mentioned, this sphere is regulated by normative acts issued at different times (presidential decrees, parliamentary and governmental resolutions, orders by ministers and heads of departments (department of forests and department of protected areas)).

2. Responsible State Authorities

National policy in the field of protection and use of biodiversity is carried out by the **Georgian Ministry of Environmental Protection and Natural Resources**. According to the legislation, this is an executive governmental institution of which ensures state governance in the field of environmental protection and rational use of natural resources as well as in the field of ecological safety of population.

The Ministry has **territorial bodies**, which represent the Ministry in the course of performing their tasks in the respective administrative-territorial units.

The Central Office of the Ministry of Environmental Protection and Natural Resources includes a structural unit titled the **Service of Biodiversity Protection**. The tasks of the Service are to protect components of biodiversity and to take part in elaboration and realization of the state policy; to coordinate and monitor the implementation of measures defined in the Georgian Strategy and Action Plan of Biodiversity Protection; to organize and coordinate implementation of obligations undertaken under the conventions and agreements in the sphere of biodiversity that Georgia ratified or joined.

The **Forestry Department, a sub-agency institution of the Georgian Ministry of Environmental Protection and Natural Resources**, is an institution of the executive government through which the Minister of Environment Protection and Natural Resources exercises executive governance in the field of forest economy. The Department subordinates regional forestry bodies (which were formed in 2007, following the reorganization of local forestry economies).

The **Department of Protected Areas, a sub-agency institution of the Georgian Ministry of Environmental Protection and Natural Resources**: protected areas (national parks, nature reserves, habitat/species management areas, monuments of nature) are subordinated to the Department.

The **Environmental Protection Inspectorate, a sub-agency institution of the Georgian Ministry of Environmental Protection and Natural Resources**, is a united centralized body of state control in the field of environment protection. Its main tasks are: to exercise state control in the field of environmental protection; to detect and prevent the cases of illegal use of natural resources; to control implementation of the terms of licenses/permits issued by the Ministry.

The Department of Environmental Permits and Licenses of the Ministry of Environmental Protection and Natural Resources: the competences of this department are: to ensure implementation of state ecological examination; to organize approval of limits; to hold actions with regards to licenses; to issue the certificate of licenses and permits.

The function of physical protection is exercised by the administration of protected areas and regional forestry divisions within the confines of their competence and on their respective territories.

3. Ecosystems

The following main biomes are found in Georgia: forests, hollow forests, semi-deserts, steppes, arid sparse forests and hemi-xerophilous bushes, wetlands (lakes, swamps, marches, etc), sub-alpine, alpine and subnival zones. Out of this the largest area is occupied by the forests. The Kolkheti Refugium and the plant complexes of limestone terrain and high-mountain zone of the Western Caucasus Mountain Range are particularly special in terms of ecologic and bio-geographic character, diversity of species, and high level of endemism.

Management of components of biodiversity at the ecosystem level is carried out via forestry and protected areas and consequently the forestry sector and protected areas will be reviewed in this chapter.

3.1 Forest

3.1.1 Current Situation

Georgia is considered to be a forest-abundant country. According to official data, roughly 40 percent of the country's territory is covered by forests. At the same time, average density of the forests reaches the critical threshold and amounts to 0.52. In addition, groves with the density below the critical level (0.5) take up more than half (55 percent) of the total territory covered by forests. Such forests have drastically decreased protective functions (protection of soils, storage of waters, regulation of waters, sanitary-hygienic functions, etc.) and self-recovery/self-renewal ability, which in the end exerts a negative influence on the entire ecological state in Georgia (Georgian Strategy and Action Plan for Biodiversity, 2005). Nevertheless, almost intact groves of forests are still found in Georgia, representing an illuminating example of our bio-geographical unit and for this reason have a great conservation value.

According to the Forest Code of Georgia, the forest fund of Georgia comprises of the state forest fund, the forests of Georgia under other types of ownership, and their resources. The state forest fund, the largest portion of Georgian forests, is under the authority of the Georgian Ministry of Environmental Protection and Natural Resources, including: 82 percent under the authority of the Forestry Department, eight percent under the Department of Protected Areas, a small portion of lands (two percent) belongs to Vasil Gulisashvili Forestry Institute, and the ownership of the rest (eight percent) is unclear¹. These are mainly former so-called *Kolkhoz* (collective farm) forests, physical transfer of the ownership of which onto local governance and self-governance bodies has not taken place. In this chapter we won't discuss protected areas; a separate article is dedicated to them.

Thus at present the forests of Georgia are entirely under the state ownership. At the same time, the foundations of private ownership are laid in the Georgian legislation. The Forest Code of Georgia (Article #9) states that an owner of the Georgian forest fund may be the state, the Office of the Patriarch of Georgia, also physical and legal entities. At the same time it is stated that the state forest fund is a state property and the rule of its denationalization is determined by the Law of Georgia on Denationalization of Georgian Forests. Denationalization or privatization of forests is possible only after said Law enters into force (Article #120).

¹ This is the official data of the Ministry for 2005. Since then certain areas from the Department of Forestry were given to the Department of Protected Areas: Tbilisi National Park and Mtirala National Park have been established. Forest areas of the Nedzvi habitat/species management area (11,000 hectares) were given to the Administration of Borjomi-Kharagauli National Park.

3.1.2 Institutional Aspects of Forest Management

The activities related to the commercial forest fund² comprise of several aspects, namely:

- Policy-making
- Forest use (licensing, contracts)
- Forest management (maintenance, biological protection, tree planting, use of the lands of the forest fund, monitoring, cadastre, accounting)
- Physical protection of forest (combating illegal use of forest)

Policy-Making

Policy-making in the sphere of forests is carried out by the Georgian Ministry of Environmental Protection and Natural Resources. Main responsibility for economic forests falls on a state sub-agency institution, Department of Forestry. It performs its duties based on its statute, the Forest Code of Georgia, and other normative documents.

Forest use

The licenses for use of forest are issued by the Ministry of Environmental Protection and Natural Resources, namely the Department of Environmental Permits and Licenses. The Ministry may grant the authority to issue licenses to its territorial bodies. So far, such a delegation has taken place only with regards to the Department of Environmental Protection of Autonomous Republic of Adjara.

The licenses are issued through auctions. According to the acting legislation, in conformity with the Forest Code, short-term (about one-year-long) and long-term (about 20-years-long) licenses are permitted. At present no legislative base exists for leasing or privatization of forests. According to the Constitution this is a prerogative of Parliament.

The licenses for use of forest are issued in accordance to the Law of Georgia on Licenses and Permits. The licenses for use of forest belong to the type of "licenses-for-use"³. There are the following types of such licenses: a general license for use of forest, a special license for wood-processing, a special license for hunting farms. At the same time, a general license for use of forest is a document that incorporates special licenses for wood-processing and hunting farms. It is not obligatory to obtain a general license in order to conduct just one particular activity covered by a special license.

General and special licenses for forest use are auctioned off. The rules for participation in the auctions, the terms, and the rule of setting the starting price are also laid out in the legislation. A license applicant should submit the application not later than 15 days before the auction is held. The auctions are held at the Ministry of Environmental Protection and Natural Resources, or at other places indicated by the Ministry. The license holder can split the license or give it to other person; the license could be inherited too.

Certain fees need to be paid for the obtainment of a license. Prior to an auction, a license applicant pays a "deposit" in cash or through a bank transfer to the bank account designated by the Ministry. The "deposit" amounts to 20 percent of the starting price. In case the applicant does not win the auction the deposit is returned, while in case s/he wins then the deposit is counted in the payment of the final price. The license applicant also pays a license fee.

The winner of an auction for obtainment of a general license of forest use or a special license for wood-processing must compensate the costs that the state will incur in the process of allocating felling areas with the appropriate volume of wood.

Following the obtainment of a license, the forest user should pay the resource tax proportional to the volume of the extracted resources to the local budget.

To sum up, the auctions are held by the Department of Environmental Permits and Licenses, while all the necessary materials for holding them are prepared by the Forestry Department.

In 2005 the Law on Licenses and Permits changed the rules of license issuance in Georgia, including licenses for forest use. According to this law, different issues are temporarily regulated by governmental resolutions and the minister's orders. Despite of this, many aspects related forests are still regulated by the Forest Code of Georgia and the statutes deriving from it, for example the rules for allocation of felling area, etc. Unfortunately, many incompatibilities exist between the old and the new law, which necessitates adoption of a new forest code. It is also necessary to make sure that the forest code incorporates more basics of sustainable management of forest and

² The state forest fund excluding protected areas

³ According to the Law of Georgia on License and Permit (2005), for utilization of natural resources a license of use is issued, an example of which is the licence for use of forest.

singles out the role of forest as a component of biological diversity. Prior to the adoption of said law, for the purpose of license issuance, interagency councils existed at Ministry, which comprised of representatives of various interested agencies and non-governmental organizations. These councils were in charge of receiving applications and determining the winners on the basis of tender (in other words, expert assessment of applications). It was unclear who was responsible for the decision-making: the ministry or an expert. A tender is a less objective procedure compared to an auction, and from this perspective the current system is better than its predecessor. However, on the other hand no preliminary evaluation of the applications is conducted, and in fact the only criterion for granting a license is the highest bid.

Forest Management

On the main issues related to the field of forests, the Ministry of Environmental Protection and Natural Resources is represented by Forestry Department, a state sub-agency. The Department's competence is to manage the state commercial forest fund (as was mentioned above, the Georgian state forest fund is comprised of the commercial forest fund and the fund of protected areas). According to the statute, the tasks of the Department are: protection of forests from illegal tree felling, fires, and parasites; state accounting and monitoring of forest resources; participation in the forest policy and formation of the legislative base; elaboration of measures to retain ecological functions of forests; monitoring and supervision of permitted activities on the lands of the forest fund; cooperation with international, local, scientific and public organizations.

The Forestry Department includes its territorial bodies: nine regional forestry agencies and basic depositories of saplings, namely regional forest agencies of Kvemo Kartli, Shida Kartli, Mtskheta-Mtianeti, Samtskhe-Javakheti, Imereti, Guria, Racha-Lechkhumi-Kvemo Svaneti, Samegrelo-Zemo Svaneti, and Kakheti and basic sapling unit of Keda. The forestry agencies incorporate forestry districts. These forestry districts practically represent the former forest economies.

The rights and responsibilities of an agency are: to account the resources present on the territory of the forest fund; to control the protection of forests and adherence to the rules of forest use; to prevent violations of the legislation, to draw up reports; to issue documents that confirm the legality of cut timber and bark for firewood, as well as the origin of timber⁴; to confiscate illegally obtained resources; to prepare proposals for allocation of land plots for state and public purposes from the state forest fund; to provide the Department with information.

Thus, according to the legislation, the function of monitoring and control is performed by local (territorial) bodies of the Forestry Department, while the accumulation and summarization of the data should be conducted within the Department itself. The Department provides this data to the Ministry. At this stage it is difficult to judge on the effectiveness of this system as the new system of the Forestry Department (structural changes) entered force only on 1 March 2007, while the recruitment has not finished yet. After the recruitment is completed, an area of 4,500 hectares in average should be assigned per forest guard.

To summarize, all aspects of the management of the commercial forest fund except for the issuance of licenses are handled by the Forestry Department. The function of controlling licenses and combating illegal use is assumed also by the Environmental Protection Inspectorate of the Ministry of Environmental Protection and Natural Resources. Aside from the rapid reaction function, i.e. detection of illegal activities while conducting field trips, the Inspectorate should also exercise control over adherence to the license conditions⁵. The mode of cooperation between the Forestry Department and the Environmental Protection Inspectorate as well as the separation of their competences in combating illegal tree felling have not specified as of yet.

3.1.3 Reform of the Georgian Forest Sector: Tendencies and Threats

The necessity of reforming the forest sector is unanimously shared by all governmental agencies, organizations and independent experts. However, a certain disagreement on the ways to implement this reform exists among the different positions. For years decisions adopted by the government come in conflict with one another, and consistency is lacking. The main reason for that is the absence of a national forest policy.

The world-wide practice has shown that in order to implement sustainable management of forests a state must carry out the following actions:

- Elaborate and approve the national forest policy;

⁴ These documents are used when transporting the obtained timber and are presented to representative of the Customs Service, law-enforcement bodies, the Inspectorate of Environmental Protection, and the Forestry Department as per requested, as envisaged by the law.

⁵ Out of more than 500 one-year licenses issued in 2006-7, none of their holders has filled out the [form of] license conditions, and hence it is unclear how they fulfil this provision of the law. The control over the fulfilment of the provisions might also be complicated by the condition that the box of Species of Resource for Felling in the issued license is incorrectly filled out. Instead of indicated the amount of wood resources per binomial names of plant species, it frequently says "coniferous" and "deciduous." Such a note may facilitate transportation of and trade in illegally felled timber.

- Elaborate a forest strategy and a plan of actions on the basis of the national forest policy;
- Approve the state legislation and implement an institutional reform in conformity with the national forest policy and strategy.

Forests belong to the whole nation and represent an issue of ardent interest as they are closely intertwined with environmental, economic and social issues. Therefore important decisions related to forests should be taken with participation of the wider public and on the basis of a national consensus.

The obligation of the government of Georgia to take such steps stems from its participation in various conventions and initiatives that declare principles of sustainable forestry (for example, Convention on Biodiversity, MCPFE and ENA-FLEG, etc).

The second factor necessary for sustainable management of forests is existence of a precise inventory, or the data on forest arrangement. This is important to ensure sustainable management of forests, i.e. in conservation perspective, as well as in order to provide a potential investor with reliable information.

The only acting strategic document on the forest sector is the Biodiversity Strategy and Plan of Actions of Georgia, approved by a governmental resolution (resolution #27 of the government of Georgia of 19 February 2005). This document provides a quite detailed description of the extant problems in the forest sector, lays out general strategic objectives and tasks, and states that "the forest strategy and plan of actions will be elaborated as a separate document based on the relevant objectives and tasks defined in this document."⁶

Discussions and works on a reform of the forest sector of Georgia began in the second half of 1990's. Following the breakup of the Soviet Union, during the civil war and battles for territorial integrity naturally nobody has had time to reform the forest sector. After the Constitution was adopted and foundations of new legislation were laid, the state began preparations to transform the Soviet-era forestries into appropriate institutions of market economy.

A new Forest Code was drawn up for this purpose (1999), followed by the commencement of a World Bank-financed project, Project of Development of the Georgian Forest Sector. This project aimed at reforming the forest sector of Georgia, improving management and institutional strengthening.

Unfortunately the national forest policy has not been elaborated at the very initial stage of this project. As a result, a number of documents elaborated and measures implemented under the aegis of this project remain unused⁷. As for the essence and direction of the reform, they change as a result of structural changes occurring in the government, and what is worst – as a result of changes/reshuffling of officials within the agency.

The first model of reform was created in 2002-2003. It envisaged the establishment of a state commercial structure, which would perform economic works. Only after this the World Bank project started to take care of the creation of the forest policy document. For this purpose the project obtained a grant from the Food and Agriculture Organization of the United Nations (FAO), which was signed at the beginning of 2004.

Following the Rose Revolution and the uniting of the State Forestry Department with the Ministry of Environmental Protection and Natural Resources, the issue of reforming the forest sector reappeared on the agenda. Unfortunately, elaboration of the policy was once again put off and elaboration of the reform concept started first.

The government of Georgia set up a governmental commission for reforming the forest sector. The Forestry Department prepared the reform concept, which was reviewed by the commission. The Cabinet of Ministers and appropriated parliamentary committees discussed this issue and reached an agreement over the main directions of the reform at the end of 2004 and beginning of 2005.

The reform envisaged the establishment of a new unit of forestry relations, a state joint-stock company with 100 percent state ownership, which would become the responsible body (commercial structure). The joint-stock company would conduct its entrepreneurial activities in accordance to the Georgian legislation; the forests would be divided into various categories on the grounds of purpose and function: high category, particularly productive, and of protection function. In terms of ownership, the reform would divide the forests into communal, municipal, and state forests; as a result of the reform, the form of the forest use subject to licensing would be a long-term lease, which could be transformed into private ownership in the future.

⁶ Meaning the Biodiversity Strategy and Plan of Actions of Georgia

⁷ For example, a document Plan of Rationalization and Institutional Development of the Forest Sector, because a thorough reform of the government took place in 2004, after the Rose Revolution, and as a result the State Department of Forestry came under subordination of the Ministry of Environmental Protection and Natural Resources

Neither representatives of society nor other structures of the Ministry, except for the Forestry Department, took part in the elaboration of this reform concept. Just several presentations were held. Overall, this model of management resembled those extant in European states, though economic, social, and ecological issues are balanced in the latter⁸. Numerous points of significance remained without elaboration and specification in the reform concept: how would forest areas be allocated for the creation of new protected areas and for the expansion of the existing ones; how the control and protection be enforced; how would the competitive milieu be maintained between private wood-processing entities and the state joint-stock company; what portion of the state forest fund would be given to the joint-stock company, etc. Only after the elaboration of this reform concept, works started on drawing up the forest policy document of Georgia.

Following the changes within the department's management in 2005, the reform's emphasis shifted once again. A new document of reform concept came out in the beginning of 2006⁹. The idea of establishing the state joint-stock company was rejected. Long-term leasing stayed as the main for of forest use. It said that the state plans to lease the maximum amount of forests to the private sector. Leasing would be replaced with private ownership in the future. As the paragon examples the document mentioned countries of Africa, Latin America and Asia, as well as Russia and Canada.

This concept suffered from myriad flaws, and was therefore criticized by environmental organizations and experts. It did not consider who would manage those forests that could not be leased; how conservation measures would be carried out; how to satisfy the population's demand on bark, etc. In fact, there was only one major difference from the previous concept: the state commercial system would not be set up, since it was considered to be a new source of corruption and a potential monopolist.

Following the publication of this document, the Ministry started working on elaboration of the forest policy. The aforementioned reform concept was rejected in entirety because of its weakness and the received criticism. The emphasis shifted onto elaboration of the policy in conformity to the FAO grant. As the subsequent developments have shown, the rejection was only temporary.

At the beginning of summer of 2006, an expert group established by the Ministry drew up a Concept of the Georgian Forest Policy. The forest policy and strategy of Georgia was planned to be created following the concept's approval and on its basis. Discussions of the concept took place. The dates and the plan to elaborate the final document were set.

Shortly thereafter, the Ministry again took the process of creating the Georgian forest policy, agreed with the donors, to a wrong direction.

At the end of 2006, again as a result of governmental changes the Concept of the Georgian Forest Policy was once again remade into a totally different document in terms of its contents and form – the Forest Policy and Strategy of Georgia – in other words, it claimed to be a finalized version.

The elaboration of this document also took place in a completely non-transparent way, through labors of several people in their respective offices. It was a mixture of two documents: Basics of the Georgian Forest Policy and the Reform Concept that the Ministry disseminated at the beginning of 2006. Naturally, the remarks and suggestions made before lost the meaning.

The document mixed the goal, objective, priority direction, principle, and action; past management, description of the present situation, and future actions envisaged by the policy were not separated either; the to-be-reviewed document also had a pretense to be a "strategy," but was not accompanied with an action plan or implementation indicators. The cases of incompatibility were detected too. For example, the document envisaged division/classification of Georgian forests according to MCPFE classes, which is welcomed, but on the other hand, the division of forests into classes as offered by the Vienna Resolution is equated with forms of ownership and permitted giving protected areas to private ownership.

At the same time the structure and disposition of the document implied that the decision on implementation of this activity had already been taken, while the document was prepared only to dress up the situation and to please the donors.

⁸ For example, part of forests in Austria is managed by a state company Österreichische Bundesforste (ÖBF). It protects and manages forests, mountains and rivers. The company manages 860,000 hectares, which amounts to 10 percent of the Austrian territory, 15 percent of the country's forests and 70 percent of the lakes. More than a half of its territory is protected by the environmental legislation.

⁹ The Position of the Georgian Ministry of Environmental Protection and Natural Resources on Reforming the Management of State Forests and Use of Natural Resources, 2006

Overall, one could conclude that through the Forest Policy and Strategy of Georgia, prepared by the Georgian Ministry of Environmental Protection and Natural Resources, it was impossible to carry out the "implementation of active measures in the management system of the forest sector" (as the 2006 report of the Ministry has claimed).

The document underwent changes once again after sound criticism on the part of non-governmental organizations (the management of the Department was once again changed during this period), but still without informing the public. This policy-defining document also came out after the reform of the forest sector was approved and put into action.

The new document is titled the Georgian Forest Policy. According to this document, forms of ownership on the forests of Georgia will be set up in the following form:

1. Territories of the Forest Fund under the state ownership, responsibility on whose management rests with the Ministry of Environmental Protection and Natural Resources (through the Department of Forestry and Department of Protected Areas). Part of the territories of the State Forest Fund through auction may be given in long-term use to legal entities of private law for wood-processing as well as for establishment of hunting farms, tourist and recreational infrastructure, and other purposes.
2. Territories of the forest fund under the management of autonomous republics, which also may be given in long-term use to physical or legal entities
3. Territories of the forest fund of local importance, being under the management of local self-governance bodies
4. Territories of the forest fund under the management of the Patriarch's Office.

According to the document, the emphasis will be shifted onto the long-term forest use in the form of licenses (different from the previous ones which implied leasing). Irrespective of the forms of ownership and management of the Forest Fund territories, the implementation of the forest policy will be coordinated and the control over forest use will be exercised by the Georgian Ministry of Environmental Protection and Natural Resources. The tentative list of those forests (roughly 800,000 hectares) that should be transferred under the management of local self-governance bodies is drawn up.

Local self-governance bodies will set up appropriate forest divisions, which will be financed from the budgets of self-governance bodies. The rights and responsibilities of self-governance bodies will be the following: a) to meet the local population's demand for firewood and wood for products¹⁰ b) to implement measures for protection and restoration of forests c) to conduct statistical (background) inventorying of forests d) to fill out the aforementioned forms and present them to the Ministry e) to elaborate plans for forest management and to present them to the Ministry for approval.

Four main functions have been defined which the state should carry out with regards to forests:

1. **Regulatory function**, which encompasses perfection of the legislative-normative base necessary to implement the forest policy with participation of all interested parties
2. **Supervisory function**, which encompasses creation of the institutional system that ensures implementation of the legislation on the forest fund territories, irrespective of their ownership or management forms
3. **Proprietorship (ownership) function**, which means such management of forests by the state that guarantees implementation of the ecological and social functions characteristic to state forests, which on its part ensures protection of forests, increase of the value of state forests, and growth of the profit for the forest owner, i.e. for the state
4. **Facilitation function**, which means creation of such conditions that facilitate stabilization of the long-term function of forests and increase of the private sector's motivation

From the perspective of meeting international commitments and developing sustainable forest management in Georgia as well as in terms of introducing modern standards of forest management, implementation of the guiding principles of The Forest Stewardship Council (FSC) has been chosen as a priority point of reference.

Many things still needed further elaboration in the document: provision of the local population with firewood and bark for materials for private purposes; eco-systemic approach was not sufficiently incorporated; nothing was said about informing the public and the possibility for its involvement in the decision-making process.

¹⁰ It is unclear whether the demand of the local population for firewood and wood for products will be satisfied at the expense of the local forests only, or from other areas too. The former collective farm (*Kolkhoz*) forests are the most degraded, and such a step will in short run destroy these forests (800, 000 hectares) completely. These forests just won't be able to satisfy the demands of the local population. It is also unclear whether forests are given to local self-governance bodies for management or for ownership.

The Forestry Department arranged a discussion of this document and requested remarks and suggestions¹¹. Many of them were taken into account during the project refinement. However, the document was disseminated in governmental agencies for agreeing and then discussed at a governmental session without its final version being available to the public at any point.

Thus, the democratic quality of the document's adoption as well as the fact that the policy is adjusted to an already decided reform path remained intact¹². However, in the version presented at the governmental session the goal of the "Georgian Forest Policy" was presented in the refined form and fully complied with the principles of sustainable management. The issues concerning the participation of the public and ecological issue have been added. It is not completely clear in which form the forests will be given to local government – whether with the right of ownership or the right of management.

Several licenses for 20-year term have already been issued in the name of the reform implementation. The Forestry Department's attitude regarding forest arrangement works should be noted. In their opinion, preliminary inventorying and forest arrangement should not be carried out by the state as it incurs additional and large costs. Therefore, the license holder should be tasked to carry out forest arrangement works. In such a case, because of the absence of preliminary data, degraded areas that have no resource of barks or forests of protected and protective importance might be given out for tree felling purposes. At the same time, evaluation by a license holder of the own resource that s/he must extract contains a certain conflict of interests. Tasking of license holders to undergo certification under the rules of the Forest Stewardship Council (FSC) seems a positive phenomenon at the first glance, but in the situation when national standards of certification are not yet elaborated and the country has no specialists well-aware of this issue, insertion of this norm in the license represents a formality so far and cannot be considered as a guarantee of preservation and sustainable use of the forests. Since in more than half of the forests the density reaches the critical threshold the forests with high conservation value are given out through long-term licenses. At the same time certification is voluntary as a rule, while its start – approbation should take place on trial (pilot) sections. Thus the Ministry's approach that inventorying should be conducted by the investor and monitoring through certified commercial organizations of the Forest Stewardship Council (FSC) is flawed from the very beginning. Experts unanimously state that if the current pace of using bark resources of the Georgian forest ecosystems is maintained, be it legal or illegal, Georgia's forests will completely disappear in 10-15 years.

There is one more dangerous tendency. As was already mentioned, at present no mechanism exists for giving forests to private ownership. In order to sell forest areas to private entities for the purposes of infrastructure development and recreational use, the areas are withdrawn from the state forest fund and added into the non-agricultural fund. And for such an action it is no longer necessary to hold an assessment of the impact on the environment. In many cases these are areas not covered by forests, located near settlements. Despite of this, it is necessary that guarantees exist for the areas sold in this manner that the forest-covered areas will not shrink or degrade. In case tree felling is inevitable, then compensation must be in place – to plant forests on a substitute territory. A legislative norm could serve as the guarantee for this. A similar practice exists when, according to a special law, a financial compensation is paid out for exploiting substitute lands when land plots of agricultural purpose are used for non-agricultural purposes.

3.1.4 Recommendations

Bearing in mind the ecological state of Georgian forests and current tendencies, it is necessary:

1. To stop large-scale use of wood resource of Georgian forests.
2. To grant the protection status (I-IV categories of IUCN, i.e. nature reserves, national parks, monuments of nature, habitat/species management area) on at least 15 percent of Georgian forests. Before the respective administrations for these areas are established, they should be granted the status of reserve protected areas through a normative act, and industrial production of bark should be prohibited.
3. Apart from this, at least 15 percent of forests in addition to be declared as protected areas of less strict mode (V-VI categories of IUCN, i.e. protected landscapes and zones of traditional use. Traditional economic activities are not prohibited here), whose management could be conducted by self-governance bodies too. The EU's recommendations should be taken into account when declaring reserve and new protected areas so that the protected areas join first the Emerald network, and then Natura-2000 in case Georgia joins the EU.
4. To complete inventory/categorization of Georgian forests and on the basis of environmental assessment to single out those areas where tree felling is still permissible. These will be the areas where the density is optimal while simultaneously not constituting the forests of high conservation value. First of all, the population's basic demands (bark for firewood and wood-for-material purposes) should be met at the expense of forests where

¹¹ Association Green Initiative provided the Forestry Department with detailed and documented remarks on this document and actively participated in the discussions

¹² Because of the existing situation, Green Alternative addressed the World Bank and demanded the Project of Forest Development be stopped

tree felling is permissible and only the remaining volume of wood resources should be given out for commercial purposes (excluding protected and protective forests).

5. As for the process of elaborating the forest policy, the following steps are necessary to be taken in a consistent way:
 - To continue and complete inventory/categorization of Georgian forests;
 - To approve the Georgian Forest Policy with a normative act, which will lay out that the Ministry of Environmental Protection and Natural Resources must within a certain period elaborate the Strategy and Plan of Actions of Implementing the Georgian Forest Policy and draw up a new Forest Code of Georgia;
 - To elaborate the Strategy of Implementing the Georgian Forest Policy (strategy and plan of actions of sustainable forest management), which will draw upon the approved Georgian Forest Policy and the data of the inventory/categorization of forests;
 - To draw up a new forest code.
6. The policy document, national strategy and plan of actions, a new forest code as well as each concrete mechanism of forest management must become a subject of discussions on the part of the wider public before their adoption and approval. Full-fledged (and not profane) public discussions must be held with participation of the wider public, specialists and representatives of scientific circles. Also, in case the remarks or opinions expressed by the public are not shared then the government must publicly provide arguments for not taking them into account at each particular case, in line with the requirements of the Aarhus Convention.
7. During implementation of reforms the state must follow the requirements of those conventions and initiatives which relate to forests and which Georgia is part to. These are: The Convention on Biodiversity, Aarhus Convention, EU directives, MCPFE, ENA-FLEG, etc. Alongside ecological requirements each of them draws due attention to participation of the public and transparency of processes.

3.2. Protected Areas

3.2.1 Present Situation

The first nature reserve in Georgia was established in Lagodekhi in 1912. A total of 14 nature reserves and five forestry-hunting economies were created during the Soviet period. Strictly protected areas amounted to 2.4 percent of the entire territory of Georgia, while the forestry-hunting economies accounted for 0.8 percent.

Any type of involvement in the nature reserves were prohibited by the law. Obtainment of resources, tree felling, hunting, extraction of minerals, construction works, tourism were forbidden. This principle, however, was violated in almost every nature reserve. At the same time a complex approach has not been employed when establishing the nature reserves. The emphasis was placed on protecting a particular species, while due attention was not drawn to other species or the ecosystem as a whole. The objectives for the establishment of the nature reserves were not correctly identified. A united legal base for the protected areas did not exist either. Because of the above-mentioned, a majority of the Georgian nature reserves was characterized with low ecological efficiency.

Monuments of living and non-living nature constituted another type of the protected objects. They were included in the Red Book of the Georgian Soviet Socialist Republic. Large and old specimens of certain trees were accounted for as living monuments of nature, for example a hollow oak in the Sagarejo District (named Eristos Oak, aged roughly 600 years), yew tree in the Akhmeta District (Tree Patriarch - 1,800 years old), etc., 30 objects in total. Non-organic monuments of nature were represented by caves, rock pillars, canyons and valleys, fossilized flora, volcanic forms, etc., 77 objects in total. Management of these monuments was not carried out. A part of them was located on the territories of state nature reserves. It was possible to impose legal responsibility (according to Administrative and Criminal Codes) for violating and damaging monuments of nature. In modern understanding, these monuments have no place in the Red Book, and they should have the status of protected areas. But since the Soviet government did not recognize such types of protected areas, their inclusion into the Red Book represented the only way to preserve and popularize them.

During the Soviet period the management of nature reserves and state hunting farms was carried out by the Main Department of Nature Reserves and Hunting farms. After the Soviet Union's breakup the Main Department of Nature Reserves and Hunting farms of Georgia became its heir¹³, which functioned on the basis of a provisional statute from 16 July 1992 (the # of the government of Georgia of 16 July 1992 on Approving the Structure and Provisional Statute of the Main Department of Nature Reserves and Hunting farms of Georgia) till 9 October 1997 when the Decree #568 of the President of Georgia on the Statute of the State Department of Protected Areas,

¹³ At different times it was subordinated to different ministries or was an independent agency

Nature Reserves and Hunting farms of Georgia came into force (prior to that the Law on the System of Protected Areas entered into force). Before 1996 no special law existed on the system of protected areas.

Formation of modern protected areas began in the 1990's with the help of international donor organizations. A scheme of the development of protected areas was drawn up, which served as the basis for further planning works. In 1996 the Law on the System of Protected Areas entered into force. This law stated that protected areas of Georgia should be established in accordance with international criteria, namely the categories of International Union for the Conservation of Nature and Natural Resources (IUCN). (See the table)

Type of Protected Area	Purpose	Category (IUCN)
Strict Nature Reserve	Strict protection	I
National Park	Conservation and recreation of ecosystems	II
Natural Monument	Preservation of specific natural features	III
Habitat/Species Management Area	Maintenance through active intervention for management purposes	IV
Protected Landscape/ Seascape	Protection and recreation of landscapes/seascapes	V
Managed Resource Protected Area	Sustainable use of natural ecosystem	VI

Apart from the above-mentioned it is possible to create a biosphere reserve and a world heritage site. Approval of both categories takes place after recognition by the UNESCO. The legislation also envisages inclusion of agricultural land plots into the list of wetlands of international importance, or Ramsar sites.

As was mentioned, following the adoption of this law the State Department of Protected Areas, Nature Reserves and Hunting farms of Georgia was created (Decree #568 of the President of Georgia).

The title of this state department was quite unclear and even odd. Nature reserves represent a category of protected areas, as was mentioned both in the law and in the department's statute. Five state forestry-hunting economies existing during that period were transformed into state habitat/species management areas, or another category of protected areas (Georgian Law on Fauna, 1996); state institutions were deprived of economic functions; the right to establish and manage a hunting farm belongs only to the private physical or legal entities. Deriving from this it was unclear why the words "natural reserves" and "hunting farms" remained in the title of the department.

In 2004, after the Rose Revolution, the State Department of Protected Areas, Nature Reserves and Hunting farms underwent reorganization and joined the Ministry of Environmental Protection and Natural Resources as a state sub-agency institution Department of Protected Areas.

At present Georgia has five national parks, nine state habitat/species management areas, 18 state nature reserves, three monuments of nature, one protected landscape. The total area of protected areas equals 467,221 hectares, which amounts to 6.7 percent of the country's territory. Seventy-five percent of it is covered by forests¹⁴. One of the protected areas of Georgia, namely the Borjomi-Kharagauli National Park joined the international network of protected areas, PAN-Parks, in 2007.

In the present situation, monuments of nature included in the Red Book of the Georgian SSR remain without a status. In order to preserve critically endangered species of flora and fauna a Georgian Law on the Red Book was created, following which a presidential decree approved the Red List. It is drawn up in accordance with modern requirements, based on the criteria of International Union for the Conservation of Nature and Natural Resources (IUCN). Unfortunately, granting of the status of protected territory Monument of Nature (III category of IUCN) to the Soviet-era monuments of nature in line with the IUCN criteria and the Georgian Law on the System of Protected Areas did not take place.

The extant protected areas were established at different times, through different mechanisms and legal acts. Part of the protected areas was established by acts of the Cabinet of Ministers of the Georgian SSR, others by resolutions of the government of independent Georgia, presidential decrees, or a special law. Accordingly, their

¹⁴ www.dpa.gov.ge

legal status also differed. In 2004 in order to rectify this flaw all protected areas went under the subordination of the Ministry of Environmental Protection and Natural Resources with the status of legal entities of public law (see the Resolution #5 of the Georgian government, 12.06.2004, on Approving the Statute of the Georgian Ministry of Environmental Protection and Natural Resources, Article 8, Paragraph 4). Those protected areas that were not created through adoption of the special law (meaning the Georgian Law on Establishment and Management of the Protected Areas of Tusheti, Batsara Babaneuri, Lagodekhi, and Vashlovani – according to which the directorates of these protected areas were granted the status of legal entities of public law) were granted the status of legal entities of public law as a result of presidential decree.

Later on, in 2005, changes again took place in the Ministry's statute. As a result of these changes the protected areas no longer represent legal entities of public law of the Ministry. Instead, the protected areas were established in two types of legal forms. The directorates and administrations of some existing protected areas joined the Ministry's system in the form of legal entities of public law. And the rest of the protected areas represent territorial bodies of the Department of Protected Areas. Legal entities of public law established on the territories of the protected areas of Kobuleti, Borjomi-Kharagauli, Kolkheti, and Mtirala are called administrations, while the legal entities of public law of Tusheti, Batsara-Babaneuri, Vashlovani, and Lagodekhi are called directorates.

As for the directorates and administrations of the protected areas existing in the form of legal entities of public law, the titles as the Director of the Directorate of Vashlovani Protected Areas, the Director of the Directorate of Tusheti Protected Areas, the Deputy Director of the Directorate of the Protected Areas of... sounded quite odd. The titles themselves might not represent a serious problem, but the goal for which the protected areas were established in this form was not achieved: unfortunately, only by summer of 2007 it was managed to set the fees for tourist services in the protected areas.

On 27 April 2007 an amendment was made into the Georgian Law on the Establishment of Tusheti, Batsara Babaneuri, Lagodekhi and Vashlovani, according to which the legal entities of public law that managed these protected areas were titled as administrations.

Thus, according to the present statute of the Ministry, the legal entities of public law united in the Ministry's system are the following:

- Administration of the Kobuleti Nature Reserve, the Kobuleti State habitat/species management area, and the Kobuleti Managed Resource Protected Area
- Administration of the Borjomi-Kharagauli National Park and the Borjomi State Nature Reserves
- Administration of the Kolkheti National Park and the Kolkheti Managed Resource Protected Area
- Administration of the Tusheti Protected Areas
- Administration of the Batsara-Babaneuri Protected Areas
- Administration of the Lagodekhi Protected Areas
- Administration of the Vashlovani Protected Areas
- Administration of the Mtirala National Park

Territorial bodies of the Department of Protected Areas are:

- Administration of the Saguramo State Nature Reserve
- Administration of the Algeti State Nature Reserve
- Administration of the Sataplia State Nature Reserve
- Administration of the Ajameti State Nature Reserve
- Administration of the Kazbegi State Nature Reserve
- Administration of the Liakhvi State Nature Reserve
- Administration of the Bichvinta-Miusera State Nature Reserve
- Administration of the Ritsa State Nature Reserve
- Administration of the Pskhu-Gumista State Nature Reserve
- Administration of the Kintrishi State Nature Reserve
- Administration of the Iori habitat/species management area
- Administration of the Gardabani habitat/species management area
- Administration of the Korughi habitat/species management area and the Mariamjvari State Nature Reserve
- Administration of the Katsoburi habitat/species management area
- Administration of the Chachuni habitat/species management area

The protected areas were granted the status of legal entities of public with the aim to give them the possibility of getting income from tourism services (and also other incomes from the activities permitted by the law). Following the changes made in 2005 only the so-called "rich" protected areas remained as legal entities of public law, i.e. those that host the projects financed by big donors and where a certain tourist infrastructure is created as a result

of these projects. The transformation of "poor" protected areas into territorial bodies of the Department bore the following logic: (1) They are not interesting in terms of ecological tourism since they have no infrastructure and will not get a non-budgetary income; and (2) They will have more guarantees to receive budgetary financing if they exist in this organizational form (there is an opinion that in case of downsizing the legal entities of public law will be the first to have their budgets cut down).

The protected areas whose administrations are legal entities of public law function on the basis of own statutes, while for the territorial bodies a united typical statute is approved (Order #439 of the Georgian Minister of Environmental Protection and Natural Resources of 6 June 2006 on the Approval of the Typical Statute for State Sub-agency Institutions of the Georgian Ministry of Environmental Protection and Natural Resources – Territorial Bodies of the Department of Protected Areas).

According to the typical statute, an administration is headed by director. The administration comprises one structural sub-unit – Protection Service. Apart from physical protection, the latter is tasked to carry out the measures for biological protection of forests (fighting forest parasites, diseases, etc.), research and monitoring, implementation of conservation and restoration measures, cadastre, inventorying of natural resources. It is clear that such tasks are incompatible with one another, and are impossible to perform against the background of scant financing and capabilities that plague the protected areas. The administrative staff includes a post of Chief Specialist for Research and Monitoring, implementation of whose functions and duties requires a whole unit staffed with appropriately equipped and trained cadres: conservation and restoration works, drawing up of maps, monitoring, accounting of natural resources and elaboration of projects and proposals about their use. Such a task is not realistic.

As was mentioned, the main legislation related to protected areas comprises of the Georgian Law on the System of Protected Areas, Law on Fauna, the Georgian Forest Code. In 2005 an appropriate resolution of the Georgian government approved the Biodiversity Strategy and Plan of Actions, one of the strategic directions of which is protected areas. This document identified the problems related to the protected areas. In order to tackle these problems the document lays out a 10-year-long strategy and a five-year-long plan of actions. Even though certain steps were taken during the last two years this is insufficient to rectify the situation. One could single out four factors that briefly describe the problems of the Georgian protected areas:

- 1) Insufficient participation of the public during planning, establishing, and functioning of the protected areas. This brings about an overlapping between the interests of the local population and the protected areas. The real needs of the population are not taken into account. The public in no way participates in the management of the protected areas. Their environmental awareness is low. Frequently the population living nearby is hostile to the protected areas.

According to the legislation, for particular protected areas the Ministry establishes scientific-consultative councils. The purpose for establishing these scientific-consultative councils are interpreted differently in the laws: according to the Georgian Law on the Establishment and Management of Tusheti, Batsara-Babaneuri, Lagodekhi, and Vashlovani (the amendment of 27 April 2007), the councils are created to ensure participation of the public in the management of the protected areas; according to the Georgian Law on the System of Protected Areas (Article 21, the amendment of 27 April 2007), the Ministry established the scientific-consultative councils for the purpose of cooperation with governmental institutions and local self-governance bodies. The existence of two different interpretations in the two laws that came out on the same day creates confusion. The amendments made to the latter limited participation of the public in the management of the protected areas (27 April 2007). Several articles were withdrawn from the law, namely the ones that enabled representatives of population and public organizations to participate in central programs and consultative councils, in the regulation of non-budgetary finances allocated for the local functioning of the protected areas, etc.

So far the scientific-consultative councils have been established for the protected areas of Tusheti, Batsara-Babaneuri, Vashlovani, and Lagodekhi, and according to the appropriate presidential decree comprise of representatives of the Ministry of Environmental Protection and Nature Resources, the Department of Protected Areas, local government, non-governmental and scientific organizations. Staffing of the councils took place via a quite transparent mechanism. For this purpose the Ministry openly declared a call for candidacies, accompanied by certain criteria for the candidates' qualifications and experience. This procedure, however, still remains a pure formality. The councils are to convene once a month, but only one meeting has taken place in more than two years after their establishment. In reality they have no function and do not participate in the decision-making related to the protected areas.

- 2) Scant capabilities of the protected areas – insufficient financing and the absence of the material-technical base; budgetary sources and base are not enough for the protection of the territories and implementation of other activities as envisaged by the law.

- 3) Illegal obtainment of natural resources on the protected areas and flaws in enforcement; Protection Services of the protected areas are small in numbers, ill-equipped and armed, and have low salaries; The legislation based on which the physical protection is carried out badly needs refinement. It is not clear how the Protection Services of the protected areas, the Inspectorate of Environmental Protection, law-enforcers, and the Border Guard Department should cooperate. A bulk of the protected areas is located in the border zones. Visitors of the protected areas and even the staff are obliged to get the permit of being in the protected area from the Border Guard Department. The Law on the Physical Protection of Protected Areas should have been adopted before the end of 2004, though it is not elaborated at present.
- 4) Lack of professional cadres with modern training.

Against such a background, it is not only impossible to come up with the management mechanisms compatible to the modern requirements, but the main purpose of protected areas – to preserve biodiversity – is also forgotten. The emphasis is placed only on the development of tourism and receiving of income from the protected areas, though nothing has been done in this regard either, except donor-financed construction of certain infrastructure in some national parks. Scientific work is almost non-existent in the protected areas. Those national parks where big donors carry out programs are in a relatively better position (protected areas of Borjom-Kharagauli, Vashlovani, Lagodekhi, Tusheti, Kolkheti). Only a handful of research and conservation projects have been implemented in the protected areas, namely: reintroduction of bezoar goat in the Borjomi-Kharagauli National Park, monitoring of brown bear in the Vashlovani protected area, the project of leopard conservation in the Vashlovani National Park, the beginning of the reintroduction of Persian Gazelle in the Vashlovani protected areas. The latter is carried out by the Ministry in the confines of the financing of a World Bank project (state grant), while the rest are conducted by non-governmental organizations, with their own financing.

Development of eco-tourism in the protected areas is naturally useful and necessary. In addition to being a source of income it also has another (probably more important) value. Existence of natural parks, habitat/species management areas, and monuments of nature allows human beings to see the beauty of the nature with their own eyes and to share in the aesthetic, spiritual, and cultural values of biodiversity. This helps raise environmental awareness of population and the endeavor of nature conservation gains more support on the part of the public. But the development of ecological tourism should be a concomitant process of biodiversity conservation and not the main objective for the existence of protected areas.

The plan for the next three years of the Ministry of Environmental Protection and Natural Resources, presented in the Law on Budget of 2007, lays out two programs related to the protected areas:

The program Measures of Fire Safety and Protection from Parasites of the Protected Areas:

- To hire firefighters-watchmen in 19 protected areas for the period of high risks of fire (five months)
- To dig anti-fire ditches and conduct other necessary preventive measures
- To take measures for protecting the flora and fauna from pathologies

The program Development of Ecological Tourism

- To disseminate informational materials in Georgia and abroad
- To advertise on mass media outlets
- To create web-pages of the nature reserves
- To participate in tourism exhibitions and markets

One could see that the main problem that obstructs protection of the gene pool of flora and fauna and preservation of biodiversity, namely poaching, is left the state programs' attention. Strengthening of mechanisms and measures of physical protection is not planned. Protection of flora and fauna from pathologies, emphasized in the program, is a serious problem, though not as grave as poaching and tree felling. As for the development of ecological tourism, here the emphasis is made not on tourism infrastructure and interpretation programs, or issues of monitoring, but instead on PR-campaign of the protected areas. No state program is planned for educating the employees and raising their qualifications. And this happens against the background when the lack of knowledge about protected areas and biodiversity is obvious both in the central office of the Department and among the employees of the administrations of protected areas.

The issue of giving protected areas to private ownership is actively discussed. Allegedly this method allows solving the financial problems faced by the protected areas. It should be taken into account that such a practice does not exist in the world. The very names such as national park and state nature reserve point to the fact that they are national and state property.

From 1996, after elaboration of new legislation, several projects funded by large donors have been implemented in Georgia, through which establishment and development of the protected areas was created and financed. These projects were very important for the country, but it should be noted that because of various subjective and objective processes they were not effective enough to solve the above-mentioned problems related to the protected areas; a sound institutional and legislative base and an effectively functioning system of protected areas could not be formed.

3.2.2 Recommendations

1) Expansion of Protected Areas

As was already mentioned, only 6.7 percent of the territory of Georgia constitutes protected areas and with this indicator Georgia lags quite far behind of European countries. And this happens when the value of Georgia's biodiversity is significantly higher compared to the European countries. Natura 2000 is an important instrument for conservation, systematically underlined in official documents of the European Commission and governments of European states. It must be underscored here that a site of Natura 2000 does not necessarily mean that human activities are prohibited there or an entry is restricted. In many cases, the sites facilitate traditional human activities and create new jobs and opportunities.

In 2004, through a project implemented by the Ministry of Environmental Protection and Natural Resources a list of candidate areas for the Emerald network was compiled and sent to the Secretariat of Bern Convention. In order to preserve the country's biodiversity, implement the European Neighborhood Policy, and harmonize various national processes it will be very important to consider creation of various types of protected areas for the candidate areas of the Emerald network.

World Wide Fund for Nature Caucasus Programme Office (WWF Caucasus PO) elaborated recommendations for the government of Georgia, according to which 15 percent of the Georgian forests need to be declared as protected areas of high category (I-IV categories of IUCN). The expansion scheme also determines migration corridors. This document could also serve as a basis for the expansion scheme. The recommendations draw on the results of several years of work by scientists and experts, on the basis of which important areas and migration routes were identified¹⁵.

2) Modernization of Protected Areas

The protected areas established in the Soviet period do not meet modern requirements. In some of them the extant mode of nature reserve cannot be implemented because of the small area and closeness to settlements. At the same time certain ecosystems are degraded to such an extent that their restoration requires an active management which the status of state nature reserve forbids. It is necessary to change the categories of some protected areas, in accordance with the existing ecological situation and geographic location. At the same time, the area of the high category protected territories should not be reduced in the country. For example, the Kazbegi Nature Reserve and the Algeti Nature Reserve could be transformed into national parks (i.e. lowered from the IUCN category I to category II, but increased in the territory and the present-day nature reserve becoming a strict protection zone of the national park in an extended form).

3) Monuments of Nature

The monuments of nature included in the former Red Book of the Georgian SSR should be declared protected areas. Their management could be conducted also by local self-governance bodies, while monitoring by the Inspectorate of Environmental Protection.

4) Introduction of New Types of Protected Areas

The experience of other countries and the local need has shown that management of protected areas could be conducted not only by one institution of the central government but also by self-governance bodies, regional governments, and governments of autonomous units.

It might also be possible for non-commercial environmental organizations and private entities to have the ability to establish protected areas in case control mechanisms are present. However, in such cases the law must differentiate protected areas of national, regional, and local importance as well as the criteria of their establishment. In order to implement all of the above-mentioned it is necessary to revise the Law on the System of Protected Areas.

¹⁵ Georgia's interest in and preparedness for development of protected areas was clearly expressed at a meeting of the Ministers of Environmental Protection of the South Caucasus in Berlin in March 2006, where the Georgian Minister of Environmental Protection and Natural Resources informed the audience about Georgia's aim to expand the protection status onto the 1/5 of the country's territory.

5) Adoption of the Law on the Physical Protection of Protected Areas

The international practice shows that if a poacher is armed better than a protector of protected areas than the fight against poaching is futile. Therefore, the protection services must have an appropriate authority and be armed and equipped well. The protection services of protected areas must be granted roughly the same authority as the Inspectorate of Environmental Protection. Organization of protection systems and identification of the bodies responsible for protection must be conducted in accordance with the mode (category) and belonging of the respective protected areas. If a protected area does not have the administration then monitoring could be carried out by a territorial body of the Ministry or a self-governance unit, while protection through inspection by the Inspectorate of Environmental Protection and the Police.

6) It is necessary to establish a permanently functioning training center for the staff of the system of protected areas, where the employees will have an opportunity to deepen their knowledge and qualification without detaching themselves from work. It is also desirable to found secondary professional education institutions in the sphere of the management of protected areas and/or introduce special courses in already existing educational institutions.

4. Species

4.1 Present Situation

The diversity of the species of living organisms is very high in Georgia. Eighty-four species of fish, 12 species of amphibians, 52 species of reptiles, more than 300 species of birds, and 109 species of mammals are found in the Georgian fauna. Among them are endemics of Georgia and the Caucasus. The fauna of invertebrates is unevenly studied: some of the groups have been studied in depth, while for others only scarce data could be found.

About 4 100 species of vascular plants have been studied in Georgia (in total 6 350 species are in the Caucasus). Three hundred species are endemic to Georgia. About 600 species endemic to the Caucasus are also found. The central and eastern parts of the Caucasus mountain range are particularly rich with endemics.

Georgia's agricultural biodiversity, i.e. diversity of breeds of domestic animals and agricultural plants, is also rich. Our country is considered the cradle of many of them, including vine and grains.

All the aforementioned threats that affect biodiversity first of all have an impact on species. As a result, many of them face a real danger of extinction.

The Georgian legislation that regulates the protection and use of species comprises of the following laws: Law on Fauna (1996), the Forest Code (1999), Law on the Red List and Red Book of Georgia (2003), Law on Licenses and Permits, and other normative acts. These issues are also reflected in the Biodiversity Strategy and Plan of Actions of Georgia. Said legislation so far needs refinement. For example, a special law exists for fauna – the Law on Fauna. The issues of protection and use of plant species are partially regulated by the Forest Code of Georgia. For rare and critically endangered species there is the Law on the Red List and Red Book of Georgia and the presidential decree based on which the Red List was approved. But non-woody plants (herbaceous plants) have not been included into this list so far. Against the background of the absence of a special law on flora, herbaceous plants are virtually "unprotected." Among them are the species of commercial value, rare and critically endangered species, healing herbs, etc. Obtainment of rare and critical species for scientific purposes is not regulated either; no Permit of any sorts exists for such an activity.

Protection of species could be carried out in two ways: via in-situ and ex-site measures. The first comprises of the protection of habitat through creation of protected areas and introduction of various environmental restraints on activities. But attention is not paid to the protection of habitats outside the protected areas. The second consists of the conservation measures carried out in artificial conditions. These activities were mainly oriented at flora through the several existing botanical gardens (in Tbilisi, Batumi, Sokhumi, Zugdidi, Bakuriani). The use of fauna is regulated by the Law on Fauna and the Law on Licenses and Permits. There are contradictions between the two laws, however.

Nowadays, use of objects of fauna is permitted on the basis of hunting Permit and fishing license. The license to create hunting farms and the license to use cone of fir, and galantus bulbs and/or cyclamen tubers which are included in the appendices of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) are also issued. These licenses, like all other licenses of use are issued on the basis of auctions. The licenses are issued by the Department of Licenses and Permits of the Ministry of Environmental Protection and Natural Resources.

Hunting is permitted only on hunting farms. This restriction does not cover migratory birds.

There is a list, approved by the law, of species which are permitted for hunting and fishing. Other regulations have also been introduced for pursuing objects of fauna. The obtaining of a given species is permitted only in the certain period set for this particular species (hunting and fishing season). Also a rule regulates those hunting and fishing weapons and instruments that are permitted. In general, it is forbidden to hunt animals during the period of breeding, with the weapons and instruments that might cause mass extinction, pollution or damage of the environment, or that make animals suffer. Use of combat weaponry is prohibited during hunting.

Amateur fishing does not require a license or permit. Deterrence and prevention of violations of fishing and hunting rules are exercised by the Environmental Protection Inspectorate.

One more aspect related to conservation of species is international trade. This procedure is regulated by the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), which Georgia joined in 1996. In 1996 the CITES secretariat and the World Customs Organization signed a memorandum that acknowledged the critical role of customs services in preventing illegal trade in species of wild flora and fauna, and in their protection by doing so. Deriving from this, a close cooperation is necessary within the country among the national administrative body of CITES, the Inspectorate of Environmental Protection, relevant scientific institutions, and the customs service. The very duty of the latter is not to let in and/or let out samples of the species of flora and fauna included in the appendices of said convention without an appropriate Permit and certificate, and to verify the compatibility of the sample and the Permit document.

International trade inflicted a serious damage to Georgia's species. This concerns such species as Black Sea Bottlenose Dolphin (Russia used them for military purposes and circus shows), brown bear (chiefly because of the trade in bile). At the conference of parties of the convention, Georgia presented proposals on restricting the rules of trade in these species. Among them, the restriction adopted in 2002 on commercial use of live specimens of Black Sea Bottlenose Dolphin is still in force. Despite ardent opposition of Russia, the conference of parties adopted the Georgian initiative with the support of non-governmental organizations of the US and the EU, and international NGOs.

4.2 Problems

From the perspective of protection and use of species, there are numerous problems that require an immediate solution.

First of all it is necessary to harmonize the laws, but this should not be conducted by neglecting the problems of conservation of species for the benefit of economic and institutional considerations. A national legislation stemming from the CITES convention needs to be elaborated, which is necessary for harmonization with the EU law and which represents the country's commitment.

Some aspects of the use of species of animals, which are related to customs and traditions, remain unsettled, for example falconry or traditional hunting on bock or bear. This even has the character of a ritual in some regions of Georgia. These traditions are not reflected in the legislation, and consequently a follower of traditions is considered a perpetrator and poacher. It is necessary to regulate this issue in such a way so as to strike a balance between the confining of the traditions within law on the one hand and protection of species on the other.

The procedure of obtaining a license for hunting migratory birds is cumbersome too. Even though its price is relative cheap, hunters tend to avoid obtaining of the Permit because of the complicated bureaucratic procedure. This is particularly difficult for those living in provinces.

One of the greatest threats to biodiversity in the world is invasive species. The Georgian legislation prohibits introduction of alien species into the nature, but it does not regulate how to conduct the monitoring of those species that were artificially introduced in the part and now inhabit Georgia (for example raccoon, nutria, raccoon dog) and how to take measures against them. The Soviet legislation did not recognize such prohibitions. On the contrary, foreign mammals with precious fur, fish of commercial use, and woody-plant species used to be introduced. In most cases, this did not bring about economic benefits. For example, the species with precious fur that inhabit cold longitudes do not give the fur of commercial value in the natural conditions of Georgia. On the other hand, an irreparable damage was inflicted to the biodiversity, which in many cases was reflected upon the economy. Crystal-clear examples of this are the introduction of Teleut squirrel in the Borjomi Valley, which led that ecosystem to an ecological disaster, introduction of raccoon in hollow forests, etc.

Illegal and extensive use of species represents a grave problem in our reality. The establishment of the Inspectorate of Environmental Protection and the increase of its authority are undoubtedly positive phenomena in combating poaching. The conservation needs of species, however, are not always given a due attention even when conducting legal activities. For example, obtaining of the species included in the Red List is prohibited, and licenses are not issued for this purpose, but when the licenses of forest use or extraction of minerals are issued, then an

adequate attention is not paid to the fact that protection of species included in the list means not only prohibition of their obtaining but also protection of their habitat. This is laid out in the Georgian legislation too¹⁶.

The mechanism of trade in galantus bulbs and cyclamen tubers also contains enough flaws, because a control is not exercised on whether the products to be exported are obtained in the wild (which is prohibited by the convention) or proliferated in artificial conditions. The legislation on the use of non-woody plants' resources is virtually nonexistent, which endangers biological diversity.

As for the state of agricultural biodiversity in Georgia, it is under a quite serious risk. During the Soviet period, with the purpose of increasing the production local species were replaced with foreign, more productive and homogenous species. Frequently this was conducted through forcing the population. In some cases during the Soviet period, extinction of aboriginal species was aimed at on ideological grounds (for example, Georgian Shepherd, or Georgian Gray Horse, the last species of which succumbed to a meat-raising program). Foreign agricultural plants like tea and citrus took up the lands of traditional agriculture and even natural eco-systems. The whole system of agriculture was changed and farmers in fact became hired employees.

In the post-Soviet period the imperfect land reform, scarce financing, and the absence of a raw materials base made farmers dependent on imported seeds, brought in by humanitarian missions or via governmental credits. In the majority of cases, they were of low quality and homogenous. Seedbanks and seed collections virtually did not exist. Such a situation threatened numerous endemic species with extinction, including unique species of vine and wheat. The country gradually loses a part of the cultural and biological heritage.

Monitoring of biodiversity is practically not conducted. A unified system of biodiversity inventory does not exist, because of which the process of data collection has a fragmentary character. Coordination does not take place between the bodies responsible for the state of biodiversity, while their employees lack appropriate qualification to conduct monitoring.

4.3 Recommendations

For the purpose of protection and sustainable use of species, following measures are necessary to implement:

1. In-situ protection of species, through expansion of the protected areas, as well as outside the protected areas through conservation of migration routes and the habitats distinguished by diversity¹⁷. The best way to protect species is to protect their habitat.
2. Facilitation of ex-situ measures, for instance, establishment of reserves of gene pool, implementation of reintroduction works
3. Refinement of the procedure of issuance of license for [hunting] migratory birds
4. Elaboration of the concept of traditional hunting and insertion of relevant amendments into the legislation (among them falconry and the concept of trophy hunting)
5. Reflection of the problem of invasive species in the legislation; approval of a "black list" of invasive species, study of the problem, and implementation of active management
6. Elaboration of the state strategy for conservation and sustainable use of the agricultural biodiversity of Georgia; preparation of the legislative base
7. Inventory the agriculture biodiversity of Georgia and compilation of the Red List
8. Elaboration and introduction of a unified methodology of biodiversity monitoring within and without the protected areas including the territories of economic forestry fund.

5. Biosafety

One of the risk factors facing the biodiversity of Georgia is spread of genetically modified living organisms, created through modern biotechnological methods, in the wild. This risk is related not only to loss of biological diversity, but also human health.

¹⁶ Law on the Environmental Protection, Article 47, Paragraph 2: With regards to the critically endangered biological species of fauna and flora included in the Red List and the Red Book of Georgia, all sorts of activities including hunting, cropping, obtaining, tree felling, grass cutting (except for special cases) that reduces the number of flora and fauna, and worsens their habitat and life conditions are prohibited. Article 53, Paragraph 1: an activity must not entail irreversible qualitative and quantitative changes in biodiversity or its degradation. Law on the Red List and Red Book of Georgia, Article 10 (Main Requirements of Protection of Critically Endangered Species), Paragraph 2: All sorts of activities including hunting, cropping, obtaining (extraction from the environment), Tree felling and grass-cutting... that might reduce the number of critically endangered species and worsen their habitat and conditions of life are prohibited.

¹⁷ The EU legislation, in particular the EU Habitats Directive, the EU Birds Directive, and the Bern Convention oblige member-states to carry out certain measures for protection of species. The appendices to these documents lay out the lists of species and single out those that require strict protection measures on the EU territory. The EU's documents also provide recommendations to ensure sustainable use of species. A special emphasis is placed on the issues of fishing and hunting.

The acting legislation of Georgia does not regulate the issues related to genetically modified organisms neither with laws nor with legally binding regulations (except for the Georgian Law on Implementation of Biological Processing of Agriculture, Chapter III, Article 8, which prohibits use of genetically modified organisms and their products as food additives for animals). The main source of the entry of genetically modified organisms to the territory of Georgia is transborder movement. There is no legislation that regulates movement of genetically modified organisms, their creation, use, and release into the wild; nor is a judicial base that defines in details the rights and responsibilities of the public in the sphere of living modified organisms.

It is known that several cases of import and introduction of genetically modified organisms occurred in Georgia. Because of the absence of monitoring and scientific studies, no data exists about their release; the level and degree of their impact upon ecosystems also remain unknown.

For the purpose of ratification of the Cartagena Protocol appropriate procedures were conducted in Parliament; the issue was discussed at committee hearings too, but it was turned down during a voting at a plenary sitting. As for the special law, the draft was also elaborated with participation of interested parties in 2004-2005, but could not be adopted because of various reasons, among them the adoption of the Law on Licenses and Permits, which completely changed the rules in this sphere, and which is often not compatible with international norms.

Recommendations

Measures that need to be taken in the sphere of biosafety in Georgia include:

1. Ratification of the Cartagena Protocol on Biosafety;
2. Elaboration of a legislative package regulating the sphere of biosafety, its public discussion and agreeing of the final text;
3. Elaboration of a state control mechanism and establishment of an appropriate controlling state structure with participation of public organizations;
4. Development of relevant technical base and training of cadres for the purpose of regulating genetically modified organisms in the country;
5. Inclusion of issues related to biosafety into educational programs; establishment of a system of public monitoring.

6. Conclusion

It is clear that the biodiversity of Georgia – on the levels of ecosystems, species, and genes – faces quite many problems and threats. A certain legislative base exists in the country, the foundations of which were laid after the adoption of the Constitution (1995). The ratification of the Biodiversity Convention by Georgia in 1994 was an important step forward, which was followed by Georgia's joining other conventions and international agreements. Despite of this, certain spheres remain which are either totally unregulated by laws (biosafety, agricultural biodiversity) or regulated poorly. Majority of laws are of declaratory nature while implementation mechanisms are flawed. Serious incompatibilities are found between the laws adopted at different times. This is felt particularly after the adoption of the Law on Licenses and Permits in 2005. This law, adopted with the aim of facilitating economic activities, upset the balance that more or less existed between environmental protection on the one hand and use of natural resources and activities having significant impact on the environment on the other; the right of the public to participate in the decision-making processes related to the environment was limited. All of this might in the near future aggravate various threats that endanger biodiversity, such as environmental pollution and excessive use.

It could be said that biodiversity conservation and environmental protection in general has never been a priority in Georgia; they were only declared when various political statements were made. As a rule, protection of biodiversity was pushed to the back whenever a project of economic development was placed on the agenda (for example, construction of the Kulevi Terminal, Baku-Tbilisi-Ceyhan pipeline, mining, building of infrastructure, etc). Budgetary financing for conservation of biodiversity was always scarce. One of the main hindering factors was uncoordinated and inconsistent activities of responsible institutions. Inefficiency of the implementation of laws has been obvious for years. Because of this, illegal use (tree felling, poaching) reached catastrophic scales. Incompatibilities between laws and inconsistency provided a fertile ground for corruption.

In 2005, the Georgian Biodiversity Strategy and Action Plan were belatedly, but still approved. Apart from the fact that the adoption of this document represents fulfilment of a convention obligation, it forms a united vision of the government on the issues of conservation and sustainable use of biodiversity.

One of the top priorities of the Georgian government's program for 2004-2009 (with the slogan: "for the united and powerful Georgia through economic growth, long-term stability and European integration") is Georgia's full

integration into European and Euro-Atlantic structures. Development of the system of protected areas and facilitation of biological diversity are explicitly mentioned among the directions of reforms.

Thus, on the level of strategies, governmental plans, and political statements it appears as if everything is all right regarding conservation of biodiversity, but their implementation does not take place. Unfortunately, commitments taken under many international agreements, declarations, conventions, and treaties are fulfilled only on paper. Main factors responsible for this are:

- Low political will, said issue not being a priority
- Legislation not harmonized, weakness of regulations
- Faulty institutional arrangement
- Low level of transparency, non-participation of the public in decision-making process
- Scant financing, limited capabilities
- Absence of the personnel with modern qualification

Considering all of this, implementation of national strategies and international obligations is carried out imperfectly and as a formality. If we look over the current situation and the tendencies regarding various directions of biodiversity (progress and model of the reform of forestry, management of protected areas, trade in the species included in CITES appendices, protection of the Red Book species, etc.), we will find out that they have nothing in common with the European experience and the EU's directives.

One of the priority areas of the European Neighborhood Policy EU/Georgia Action Plan is strengthening administrative structures and procedures to ensure strategic planning of environmental issues and coordination between relevant actors. This is exactly what is envisaged by the Georgian Biodiversity Strategy and Action Plan in the field of biodiversity protection and management. Consistent implementation of this document could help to tackle the problems and avoid threats that Georgia's biodiversity faces today.

Georgia is certainly not a member of the EU, neither it is obliged to follow all the EU directives. However, as Georgia declares its strong will to integration into the European structures, it must meet certain requirements. Undoubtedly, direct transposition of different country models is not advisable; however administrative structures shall be ready if Georgia is to take steps towards accession. Moreover, accession is not the only reason to follow directives; this is also a mean to preserve biological diversity of the country. Preliminary selection of Natura 2000 candidate sites and their inclusion into the Emerald Network (such action had immensely positive effect on preservation of ecosystems and especially forests in the Europe), transposition of CITES and adoption of the national legislation on biosafety could have been significant steps towards this direction.

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