

# Info-brief: EUTR enforcement in Bulgaria

The EU Timber Regulation (EUTR) is implemented in each Member State via national legislation and enforced by national authorities. This means that differences exist in penalty regimes and enforcement practices. It also means that the opportunities for EU (and non-EU) civil society to support enforcement differ. Here we provide key information on the Bulgarian implementing legislation for the EUTR, as well as top-line information on the enforcement approach in Bulgaria as of February 2018. This document is designed as a first point of reference – not a comprehensive source of information. It will be updated as new information becomes available.

## Implementation status

- Implementation through an amendment to *Закон за горите* (Forestry Act), which entered into force on 7<sup>th</sup> August 2012.
- The Executive Forests Agency is the Competent Authority (CA), while checks are performed by the Regional Forestry Directorates. The CA is subordinate to the Ministry of Agriculture and Food.

## Resources

- No recent public information available. However, the Regional Forestry Directorates responsible for checks are said to be underfinanced so are not always able to carry out controls.

## Penalty regime

- Administrative sanctions may apply to an individual or a legal entity that breaches EUTR. The CA can impose fines ranging from 25 to 2500 EUR.
- The fee can be tripled if a person or an entity violates the EUTR repeatedly within a period of one year from the day they are found to have violated the EUTR for the first time.
- There is no criteria or guidance that the CA should take into account in the final assessment of the amount of the fee.
- Under Bulgarian law, illegal timber can also be confiscated by the CA and should be used for social purposes.

## Checks by the Competent Authority

- 430 regular forestry inspections were carried out in 2016. Reportedly, EUTR compliance was also part of those checks.

## Substantiated concerns (SCs)

- There are no special forms for SCs and no specific national rules on how the CA should handle a SC. Hence, SCs are governed by general procedural and substantial provisions of administrative laws.
- Citizens and NGOs can submit a request (сигнал, 'signal') to the CA. It can be made in writing or orally. The request should contain contact information of the person or entity identified in it as engaged in illegal logging. It should not concern a violation older than two years.
- Authorities must handle requests within two months from the day they are submitted. The decision on a request has to be made in written form, contain reasoning and be communicated within seven days after it is rendered. If the decision affects rights or legitimate interests of other persons, the decision shall be communicated to these persons as well.
- Information from the CA regarding its activities can be obtained by means of a request for public information, but it generally refuses to provide information relating to its investigations. NGOs can submit a complaint against the CA to the Internal Inspectorate of the Ministry and attempt to receive information about the internal investigation.
- Because of the wide degree of discretion granted to the administration and because courts refrain from reviewing this discretionary power, approaches to challenge a decision by the CA are likely to prove ineffective in practice.
- Citizens and NGOs can only challenge inaction on the part of the CA before an administrative court within a timeframe of 14 days after the submission of the initial request. However, it is very difficult in

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practice, since they have to demonstrate that there is a direct obligation on the CA to carry out a particular action and that they have an interest in commencing the requested proceedings.

- Public prosecutors have vast competence to challenge decisions made in administrative proceedings. They can appeal against decisions made by the CA and have the right to instruct them to commence investigations.

### Possibilities to challenge operators in legal proceedings

- NGOs can file a criminal complaint directly with the police or the prosecutor's office if there are sufficient grounds for suspicion of a crime.
- The CA is under a general obligation to notify the prosecutor's office of a crime related to illegal logging.
- Environmental NGOs do not have standing to bring cases relying on consumer protection laws unless they are a qualified entity such as an association of consumers, which would in general require changes being made to their statutes.

### Other key elements

- Domestic illegal logging is a crime under the Criminal Code, punishable by imprisonment for up to six years.
- Concealing, loading, transportation, unloading, storing or processing timber unlawfully obtained by another person is also punishable by imprisonment for up to six years.
- There is no registration obligation for operators.

### Key implementation/enforcement strengths

- The CA has a dedicated phone line and an online form where cases of corruption and violations of forestry laws can be reported directly.
- An online system, which provides up-to-date information regarding the transport of timber and transport documents, is available to the public.
- It is legally required to install video surveillance in the wood-processing and –trading departments of companies and use GPS tracking on trucks transporting timber.

### Key implementation/enforcement weaknesses

- There are no criminal sanctions laid down in the Forestry Act for EUTR-related infringements.
- Financial administrative penalties are set at a low range of rates, without distinction as to the type of EUTR breach.
- There are no specifically designated EUTR-inspection teams in the CA and the Regional Forestry Departments. There have only been trainings in some of the regional departments. There are also no specific procedures and guidelines developed for the purpose of EUTR checks.
- Enforcement is hampered by high levels of corruption in the forestry sector.
- In numerous cases, the confiscated illegal timber is sold on the market rather than used for social purposes.

### Resource information

*Law:*

- Закон за горите (Forestry Act; articles 127, 212 and 213, 271 – 273)
- Наказателен Кодекс (Criminal Code; articles 235, par.2)
- Ordinance № 1 on the control and protection of the forest territories of 30<sup>th</sup> January 2012
- Ordinance on the terms and conditions for the assignment of activities in the forest territories - state and municipal property, and for the use of wood and non-timber forest products of 24<sup>th</sup> November 2011

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