

Forest protection in China and Bulgaria: A comparative legal analysis

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Abstract. Forest protection represents a significant phenomenon, a legal and social principle in itself, related to the larger aspiration of humanity to achieve an ecological balance of anthropogenic activity and sustainable development. With the present study, we will analyse an interesting problem related closely to environmental protection. Bulgaria and China are characterized by a significant percentage of afforestation in their territory. Forests in China vary between 21 and 24 percent, while in Bulgaria they reach 36 percent. The principles of regulation of forest protection in China and Bulgaria share some common features, but also hide their peculiarities. With this research, we set the following predetermined goals: to give a basic idea of the legal framework in each of the countries related to the protection of forests; to indicate the main principles that determine the legislation in the area; to indicate the best examples of their comparable features.

Keywords: forest protection, environmental rule of law, forestry act, European Green Deal, Constitution of the People's Republic of China

Introduction

Scientific and technical progress has a dark side. Its negative impact - global warming and increasing needs of mankind for sheltering, skyrocketing heating costs all around the world due to the tensions in international relations, along with consumerism to own and use material products, medicines, and cosmetics, careless human activity leading to fires. All these factors, often in excessively large sizes, have led us to the point where forests are disappearing at unprecedented rates (Runyan, D'Odorico 2016, 23-24).

This is a huge and underestimated problem. Deforestation puts not only the world's plant and animal species at risk of damage or outright extinction, it puts at risk not only timber production, not only tourist business, or the traditional hunting practice - it should never be considered sectorally or regionally. It leads to global disasters as drought¹, floods and excessive carbonation of the

¹ The great drought on the Yellow and Yangtze rivers had a great impact in forest protection policies in China (Weyerhaeuser, Kahrl, Yufang 2006, 381).

air (Asner 2009). Deforestation could be considered a driver of outbreaks of zoonotic diseases like the Covid-19, thus it directly threatens the survival of the whole human population. Often deforestation is driven by the pressing global problem in the face of illegal timber harvesting and trade which creates not only environmental but also social damage as these activities outside the law give prerequisites conditions for international organized crime and corruption.²

In response to that, *forest protection* represents a significant collective phenomenon, a legal and social principle in itself, related to the larger aspiration of humanity to achieve an ecological balance of anthropogenic activity and sustainable development. With the present study, we will analyse an interesting and undoubtedly understudied problem related closely to environmental protection in a normative comparative perspective - the forestry laws of two countries, two communities adhered to environmental rule of law and concerned about the conservation of their natural resources.

Bulgaria and China are characterized by a significant percentage of afforestation in their territory. In China they vary between 21 and 24 percent and are growing, while in Bulgaria they reach up to 35 percent³ (Forest area). The regulatory principles of forest protection in China and Bulgaria share some common features but also hide their peculiarities. The differences stem mainly from the fact that there is still no international legal act directly dealing with the issue, although it is clear that forest conservation should be part of humanity's overall strategy for sustainable development. Commitment to forest protection by civilized nations derives from the general provisions of international law. So, both the Bulgarian state and China are obliged to adhere to these international norms and principles⁴ which with its sufficient breadth and precision, could be interpreted as establishing certain rules in the direction of woods conservation and sustainable forest management (Eikermann 2015, 138). Unfortunately, there is still a lack of a dedicated and comprehensive international treaty, a global instrument that deals solely with the protection of forests. It would not be too much of a stretch to suspect with great confidence, that State and private financial and political interests have prevented the implementation of the initiative of codification of this specific issue. The more specific norms for forest protection are scattered throughout numerous international instruments, but mostly regional ones, like the *International Tropical Timber Agreement* or the *Ramsar Convention on Wetlands*. The regulation includes also soft law acts like the proposals of the Intergovernmental Panel on Forests and the Intergovernmental Forum on Forests.

² That is the fate of most well-forested countries in the world. Bulgaria is a valuable source of wood for the European Union and especially for its southern neighbors - Greece and Turkey. Big financial interests increase the risk of corruption and under-control, thus they could possibly boost illegal logging, trade and transport.

³ We have information about the scale of the Bulgarian forest since the Middle Ages. In ancient sources, especially about Crusades, it may be one found as *Silva Magna Bulgarica*. A dense, impenetrable forest, taking many days and nights to be traversed (Dall'Aglio 2010, 409-411).

⁴ About the principles and norms of international law see Ilieva 2017, 190-194.

Despite talks at a global level and pressing society and green organizations, there is also a lack of a clear common institutionalized assessment of the purpose of the social, economic, and societal impact of such an undertaking as the writing of a special international treaty. That is, we do not yet even see the real beginnings of someone taking up this policy on a global level. The issue is not new, it has been the subject of debate, however, in informal international organizations such as the G7 group, and later, at the United Nations Conference on Environment and Development (UNCED) in Rio, held in 1992. But it fell victim to an unhappy fate which some authors mention as a disappointment of greatest degree (Anastassov 2015, 140). Within the talks in Rio, it turned out that the international community is very far from agreement on the issue of forest protection. Instead, a rather fragile political solution was reached, named *Non-Legally Binding Authoritative Statement of Principles for a Global Consensus on the Management, Conservation and Sustainable Development of All Types of Forests*. And although since then we have made a lot of progress in the mission to keep the planet clean and rid it of environmental problems, despite the incredible achievements negotiating high common principles laid down in the COP 26 or the European Union Green Deal, for example, it all seems somewhat wishful for states yet.

There is still a lack of strong political will among individual governments to develop a treaty that covers public relations at the international level in the use and management of forests, **although this is a matter of global, planetary importance**. International dispute about the survival of the earth's ecosystem has always been led in all other, sectoral aspects - marine ecology, conservation of animal species even space exploration, but is somehow not connected to the protection of forests at the international level. Except that it does not bode well for the planet, this leads to many disparities in legislation in individual states.

Bulgarian legislation in forest protection

In Bulgaria, forest protection is a multi-level phenomenon with deep political, social and legal roots. This issue is dealt with mutually by state/local authorities and numerous non-governmental organizations, municipal and regional offices, individuals, and the scientific community. In the field of science, forest conservation is studied in the disciplines of Forestry Sciences, as well as in courses in Law. In the case of Law, this category falls within the field of environmental normative studies, which is a widely used elective discipline among individual faculties in the country. That is a good sign - it creates specific knowledge, awakens civic conscience and thus helps the existing legislative base to be improved.

Bulgarian regulation is characterized by a dynamic, innovative and complex legal framework related to the protection of forests. The country can boast of a good legal framework of environmental legislation. The twelve-year-old Bulgarian Forestry Act sets up a vast legal framework for the conservation of forests and (consequently) the support of the functions of "forest areas". The law includes norms aiming climate regulation and carbon absorption. Especially

relevant for forest restoration and indirectly for CO₂ absorption is the chapter on “Afforestation and protection of forest areas against erosion and floods”.

Subsidiary norms for the forest protection regime can also be found in the Environmental Protection Act, the Law on protected territories, the Law on the organization of the territory and the Biodiversity Act. There are also many optional, programmatic instruments. Over the years numerous soft law acts such as strategies in the field of environmental protection have influenced forest protection in Bulgaria.⁵

In addition to the fact that this area of public relations is governed by a large number of legal and by-law normative documents, traditionally, since the last twenty years, **there has been a broad public dialogue on environmental protection in Bulgarian society.** This is an indicator of the good practices of the rule-making process and the solid legislation that the state has implemented on the matter of pursuing environmental rule of law. The broad public dialogue can be considered an appropriate basis for conducting transparent, rational and fair public consultations for any amendment and addition to the normative base. Public debates also ensure that civil society monitors decision-makers and inspects for violations of the law. Large public dialogue gives society the opportunity for direct influence in regulation which is an expected and desirable outcome for a healthy regulatory framework (Dimov 2021, 246-247).

The country has long-standing traditions in the legal settlement of public relations related to the protection, management and use of forest territories. Its independent state legislation dates back to the end of the 19th century, immediately after the liberation of Bulgaria from the Turkish yoke and the revival of the third Bulgarian state. With the act of adoption of the Tarnovo Constitution in 1883, a new Forest Law was approved by the Decree of Prince Alexander I of Battenberg. With these legal innovations the first specialized administration directly related to the protection of forest resources was created - the Forestry Department under the Ministry of Finance.⁶ Until the end of the monarchical rule in Bulgaria and the creation of the first republican constitution, a total of six forest laws were adopted (Licheva). After the Second World War forest areas were nationalized and consolidated into a single forest fund. Then state woods were divided for public and private usage.

International law also began to develop in this period. A year before the signing of the *African Convention on the Conservation of Nature and Natural Resources in 1968*, Bulgaria adopted The Nature Protection Act of 1967, with a view to the integrity and preservation of protected area species and their management. Modern for its time law provided measures not only for protection but also for rational use, improvement and restoration of natural resources and their use in the most sustainable and environmentally safe way. At the beginning of the

⁵ Since 1990 informal regulation is an integral part of ecological governance in Bulgaria (Penchev 2017, 206-207).

⁶ The laws governing land relations in the Ottoman Empire, part of which was Bulgaria before 1878, were the Land law of 21 April 1858, the Forest law of 7 January 1870, accompanied by the Turkish Government Instructions of 1875.

1970s, social interest in ecology grew, and during this period Bulgaria actively participated in most international environmental protection initiatives (Bojinov 1994, 93-94). In 1997, a new law in the country came into force which turned out to be ineffective, especially in terms of protection against illegal acts.

In 2011, a new and improved normative act on forests was adopted laying its conceptual basis on Art. 18 of the Constitution of the Republic of Bulgaria. It introduced several new and modern requirements for forest management and categorizes certain areas for special forests. With an eye on protecting the ecology for the future, it includes **planning as a basic principle and introduces a very strict regime with a number of prohibitions and restrictions** (Belev, Aleksova 2012, 40).

According to Art. 1, the current Forestry Act regulates the public relations related to the preservation, management and use of forest territories in the Republic of Bulgaria, **in order to guarantee multifunctional and sustainable management of forest ecosystems**. The capture of the normative act directly refers to its subject of regulation. In its scope are woods and forest territories. A legal definition for forests is given. In general, these are the lands occupied by forest tree vegetation with an area of not less than one acre, a mature stand height of not less than 5 m, a stand width measured between the trunks of terminal trees of not less than 10 m, and projection of the crowns not less than 10 percent of the plantation area. They can also be forest belts as well as regenerating formations with plantations, etc.

The act is comprehensive. It contains 18 chapters and 277 provisions, as well as transitional and final norms. To the law there is and separate complex Regulations Act. The specific purpose of the Forestry Act is to regulate the terms and conditions for the management, reproduction, use and protection of forests and lands from the forest fund, as well as the relations related to the right of ownership over them. The law introduces many complex measures and mechanisms for the implementation of the forest protection policy. It regulates the activity in and towards the forests and outlines the special bodies for carrying out control over this (in the form of an executive agency). Administrative and punitive measures are also foreseen, i.e., sanctions for the violation of the regulations.

The forest law sets many ambitious goals such as maintaining and improving the condition of the mountains, maintaining the biological and landscape diversity and improving the condition of the populations of wild flora, fauna and mycotic species, providing recreation opportunities for the population achieving a balance between the interests of the society and the owners of the forest territories, etc.

The state policy in the area is to be implemented by the relevant competent authorities. The directly involved authorities in Bulgaria include, but are not limited to, the Ministry of Agriculture, the Ministry of Regional Development and Public Works, the Forestry Executive Agency created specifically for the purpose, the Ministry of the Interior, regional and municipal structures, the mayors, state enterprises, state forestry farms and state hunting farms.

The management of forests and lands from the forest fund in Bulgaria is carried out according to strictly defined measures such as establishing an

obligation to carry out activities in forest territories in a manner that is safe for plant and animal species and their habitats, soils, water bodies and technical infrastructure elements; establishment of special rules regarding management, protection, access to and ownership of forest territories; establishment of special rules regarding the use of wood and non-wood forest products; establishment of special rules regarding access to forests; establishing special rules regarding the structure of the administrations that manage them; the **protection** of forest territories in the aspect of preventing and establishing violations of the law and **control** over the activities therein (Penchev 2023, 185-192). And the last two are particularly important for the public law functions of the state, so we emphasize them.

Protection is the mechanism of measures taken by forest owners and state authorities to stop other harmful plants and animals that lead to the undergrowth of forests and plantations. The legal ground of this action is Ordinance No. 9 of 5 December 2020 of the Minister of Agriculture, Food and Forestry, who, through the Forestry Executive Agency, implements the state policy in the field of protection of forest territories from diseases, pests and other damage, including the use of plant protection products. Employees of this activity should have a forestry education. Auxiliary organs are also the Forest Protection Stations and the Regional Forest Directorates.

Control consists of measures taken to monitor whether the regulations for the management and use of forests are observed. Public organs, charged with these tasks are also required to monitor and prevent forest fires, to protect woods from poachers and illegal construction. These measures also happen based on the abovementioned Ordinance of the Minister of Agriculture, Food and Forestry. The control is carried out by the employees of the Forestry Executive Agency. The organ carries the duty to prevent violations of the law concerning forest territories, to stop illegal activities, and to issue orders and prescriptions when irregularities are detected. Inspectors from the Agency's staff can draw up investigative protocols and acts for the establishment of administrative violations. They also monitor for human behaviour with higher public danger. They should inspect for criminal activity such as illegal felling and removal of forest massifs, illegal picking and destruction of certain plant species, deliberate arson of forests, careless arson of forests.⁷

Legislation of the European Union in forest protection

Along with the Bulgarian national law and international norms, the state should comply with the general European legislation on the conservation, restoration and sustainable management of forests. In 2015, the European Union (EU) adopted an act on the new EU forest strategy to ensure a consistent

⁷ Because of the dangers of the duty employees of the Forestry Agency, along with other specially selected positions from the state bodies such as magistrates, police, customs, etc., are considered to have a special status and fall under the special section of the Penal Code, which means that assaulting them will be considered a more serious crime.

and coherent approach to all policies and initiatives related to the forest sector which bound the state firsthand, namely the European Parliament resolution of 28 April 2015 on “A new EU Forest Strategy: for forests and the forest-based sector” (document A8-0126/2015).

According to the latest European environmental policy (embodied in **the European Green Deal**), the continent is in the strive for Europe’s transition to a modern, climate-neutral, resource-efficient and competitive economy (COM/2019/640 final). The commitments and actions proposed in this strategy are prepared with **the aim to deliver growing, healthy, diverse and resilient EU forests and ensure their significant contribution to our climate and biodiversity ambitions, thriving livelihoods in rural areas and beyond, and a sustainable forest bioeconomy** (COM/2021/572 final).

Bulgaria is also obliged to adhere to the Common Agricultural Policy (CAP) Strategic Plan’s recommendations, introducing a new way of working to modernize and simplify the EU’s policy on agriculture. They aim to ensure the achievement of the specific CAP objectives, touching upon environmental, social and economic challenges, as well as a cross-cutting objective on knowledge and innovation. This mechanism introduced a new performance- and results-based approach. Bulgaria implemented the new CAP with relevant strategic planning. It combines a serious range of pretargeted interventions addressing the specific needs of the country aiming to deliver tangible results in relation to EU-level objectives while contributing to the ambitions of the European Green Deal. The Initial Strategic Plan of Bulgaria for 2021 consists the impressive 1,144 pages (CCI 2023BG06AFSP001). It includes numerous statistical analyses and various data regarding forest areas, respectively, recommendations and measures for their use and management.

All these measures undoubtedly prove the depth and complexity of social and legal relations in conjunction to forest protection. It can be concluded that, just like with the Green Deal overall innovation, the European Union is extremely ahead of the international community in forest protection policy, which is a big plus for Bulgaria. Its society is united in maintaining the course for the establishment of a common planetary future, accepting forests not only as a commercial product or resource but as an object of the common good.

Chinese legislation in forest protection

As with the Bulgarian state, the legislation of the People’s Republic of China in the field of forest protection is undergoing a long evolution during the latest decades. In recent years, the Asian state has made great and ambitious efforts to strengthen forest protection and to regulate more comprehensively the activities related to the protection, cutting and processing of wood. When China’s newly amended forest law came into effect, it marked the first revision of the law in over twenty years. The law came with a number of significant improvements, aiming to better protect China’s forest resources, promote sustainable

development and contribute to the national policy of building an ecological civilization.⁸

The state has followed a long path of socio-economic reforms, in the struggle for accelerated development and industrialization, while at the same time, it makes an effort to manage in the best possible way regulation of forestry. In recent years, China has promoted sustainable forest management by implementing large-scale land greening activities.⁹

The main legislative act in the area is the Forest Law of the People's Republic of China. It was adopted in 1984 and revised in 2019. The law consists of 84 articles, divided in seven chapters, including supplementary provisions. The law contains substantive legal norms, regarding forest management, rights and obligations of the competent authorities, rules for inspection and control and provisions for liability in the event of offenses. Subsidiary norms we could track also in the Regulations on the Implementation of the Forestry Law of the People's Republic of China, adopted in 2000, the Water and Soil Conservation Law of the People's Republic of China and the Law of the People's Republic of China on Urban and Rural Planning. There are also secondary provisions in the Suggestions of the State Council on Strengthening Major Activities of Environmental Protection, the Decision of the State Council on Implementing Scientific Outlook on Development and Strengthening Environmental Protection of 2005 and the Decision of the State Council on Several Issues Concerning Environmental Protection of 1996.

Most of these norms are a product of a period characterized by the construction of the system of the socialist market economy and the diversification of the structure and forms of ownership (Jianjun, Tian 2018, 160). However, unlike Bulgaria and its relationship with the European Union, there is no supra-national authority over China that sets the guidelines and introduces a certain type of legislation that should be followed. The Chinese state determines its own policy and legislation.

As with the ruling of the Bulgarian state, which is strongly adhered to its constitution (a supreme law that defines the main legislative principles, including the areas of regulation of public relations, in which the forest territories also fall), the base of the legislation of the Asian state about forests is the fundamentally established principle of Art. 26 of the Constitution of the People's Republic of China. It orders that the state shall protect and improve living environments and the ecological environment, and prevent and control pollution and other public hazards. The state shall organize and encourage afforestation and protect forests.

⁸ Since the middle of the last century, it has become clear that China is a country with a large shortage of timber (Richardson 1966). In the same way as in Bulgaria, a shortage of valuable wood is a pressing problem for the Asian country which puts its legal system under the pressure of large economic interests.

⁹ The National Development and Reform Commission of People's Republic of China (NDRC) reports that more than 7 million hectares of forests were planted in each for three years since 2016, leading China as the top country in forest growth in 2017 (NDRC 2017).

Art. 9 of the same act states that all forests are owned by the state, that is the whole people, except for the forests, which are owned by collectives¹⁰ as prescribed by law. **The socialist public property is sacred and inviolable** (Art. 12). In this sense, forests acquire the status of a common heritage for the Chinese people, thus, the state is obliged to ensure the rational use of natural resources and to protect rare animals and plants. According to the norm of Art. 9 of the Constitution it is unquestionably prohibited for any organization or individual to seize or damage natural resources by any means. These constitutional provisions are very important and provide the legal basis for very strict control in nature conservation.

Being the leader in wood imports in the world, the People's Republic of China is taking a bold step in the fight against deforestation (Wood Products). With an amendment to its law on forests and the distribution of Art. 65 three years ago, the Asian country bans the purchase, process, and transport of wood in full awareness of their illegal origins such as illegal felling or wanton deforestation. Any timber processing and the operating enterprise shall keep proper documentation of the origin of their goods. The 2019 legislative initiative represents one of the most significant steps not only regionally, **but globally in the fight against deforestation and puts the state on the right track in pursuing its goal of being an ecological civilization.**

China has also significantly increased administrative control over logging. According to the Timber Trade Portal of the International Technical Association of Tropical Timber the law requires numerous complex permits and certification documents for timber harvesting activities, transportation and trade. Primary woodworking must be done in accordance with the State Council's approved Annual Allowable Logging Quota (Timber Trade Portal).

The public structures involved in the protection of forests, as in Bulgaria, are located at multiple levels - state, local and municipal offices. Their powers are strictly spelled out. According to Art. 66 of the Forestry Law the competent department of forestry of the people's governments at or above the county level shall, in accordance with the provisions of this Law, supervise and inspect the protection, restoration, exploitation and renewal of forest resources, and investigate and deal with illegal actions such as destruction of forest resources under the law.

The main governmental body engaged in forest management is named State Forestry and Grassland Administration. It was founded in 1949 as the Ministry of Forestry and Farming. Two years later, forests management was separated into an independent ministry and the farming section was transferred to the Ministry of Agriculture. In 1998, the organ became the autonomous State Forestry Administration. Two decades later, under substantial national institution reforms, the name was changed to the current "State Forestry and Grassland Administration". Nowadays the administration is under the management of the newly formed Ministry of Natural Resources. It is responsible for policy-

¹⁰ Many forests in China, like most agricultural land, are owned by collectives (Christy et al. 2007, 30).

making, plantation establishment, conservation and wood industry management. Its auxiliary bodies in the exercise of management of the forest territories are the local authorities, the Fire and Rescue Force, etc.

Conclusion

It can be concluded that both Bulgarian and Chinese legislation share some common features. It is no coincidence that the two countries enjoy mutual commercial and investment interests precisely thanks to their substantial and modern legal frameworks, which presuppose the contractual basis of Bulgarian-Chinese relations to be constantly updated (Jianjun, Tian 2022, 172). China and Bulgaria share a common goal - the protection of the environment, climate and biodiversity (with which both countries are extremely well rewarded), guided by the basic principles of international law. Both countries have a significantly complex and substantial legislative base in the area forest protection. In both countries, there is a separate administration specialized in the matter, under the departmental head of a ministry and these bodies are supported by all other central and local authorities.¹¹

Bulgaria, however, is ahead of China both in the historical aspect, and in terms of the complexity of the regulatory framework, since the country is subject to both national and supranational EU law. Chinese legislation, however, enjoys far more extensive influence. While Bulgarian regulation has an impact nationally and regionally, the new 2019 changes to the Chinese Forestry Law have the potential to positively impact and deter illegal activities and corruption in the timber trade on a global level. Nevertheless, the efforts of both countries should be directed towards the realization of general legislation at the universal level on the plane of forests. That act which is still lacking, but if drafted, will pave the way to stop the destructive anthropogenic activity leading to deforestation and to establish the much-desired harmony between man and nature. States must continue securing ecological values, addressing harmful human activities, and counteracting illegal deforestation, as financial and political interests due to the valuable resource of wood will continue to exert their influence.

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¹¹ Ecological problems are also of local character (Penchev 2019, 189).

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