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Summary: “Changes in Anti-Corruption Legislation: the Application in the Forest Sector”

In July 2014, under the “European Neighborhood and Partnership Instrument East Countries Forest Law Enforcement and Governance II Program” (ENPI East FLEG II) a practical guide “Preventing and Counteracting Corruption in the Forest Sector of Ukraine” was published. It examined in detail provisions of key anti-corruption laws, the main of which are the Law of Ukraine “On Principles of Prevention and Counteracting Corruption” and “On Amendments to Some Legislative Acts of Ukraine Regarding Liability for Corruption Offenses”, adopted 07.04.2011.

About 900 copies of the publication were donated to the State Forestry Resources Agency of Ukraine, which disseminated the book among regional forestry departments, business management entities and forestry training centers. The book has received a positive feedback from statutory forest authorities officials, forestry companies’ practitioners and the interested public.

However, in October 14, 2014 the Verkhovna Rada of Ukraine adopted a package of new anti-corruption laws, including Laws of Ukraine “On Prevention of Corruption”, “On the National Anti-Corruption Bureau of Ukraine” and “On the Principles of State Anti-Corruption Policy in Ukraine (Anti-Corruption Strategy) for 2014-2017”. The basic law in this area “On Prevention of Corruption” came into force on 26 April 2015. Meanwhile previous laws became void, as follows: the Law of Ukraine “On Principles of Preventing and Counteracting Corruption” dated 07.04.2011 and the Law of Ukraine “On the Rules of Ethical Conduct” dated 17.05.2012.

New anti-corruption laws are aimed at comprehensive reform of the corruption prevention system in accordance with international standards, detailing already existing tools to prevent corruption, and introducing additional legal and organizational principles of the anti-corruption system operation. This improved the regulatory content and procedure for applying

preventive mechanisms, and introduced additional rules of eliminating the effects of crime in this area.

In addition, the anti-corruption laws were amended since their adoption by the Law of Ukraine “On Amendments to Certain Legislative Acts of Ukraine Concerning Support of the National Anti-Corruption Bureau of Ukraine and the National Agency for the Prevention of Corruption” dated 02.12.2015 that provides for a number of significant novelties and additions to the powers of the said bodies.

Thus, there is the need for clarifications and comments to the recently approved package of anti-corruption laws. This work continued implementing the tasks of the knowledge dissemination program to prevent corruption in the forest sector.

In this regard, the Consultant for the Program in the article **“Changes in the Anti-Corruption Legislation: the Application in the Forest Sector”** prepared a comment to provisions of the adopted laws with a comparative analysis of the previous and the new anti-corruption legislation, providing a thorough explanation of the features of the approved legislation enforcement.

The paper consists of five sections. Section 1 describes the updated subjects covered by the adopted law, comments on the new subjects in the area of counteracting corruption, i.e., the National Anti-Corruption Bureau of Ukraine (NABU), the National Agency for Prevention of Corruption (NAPC), the procuratorial authorities and internal affairs agencies. Also, there is a detailed description of action of the Law of Ukraine “On the Principles of State Anti-Corruption Policy in Ukraine (the Anti-Corruption Strategy) for 2014-2017” approved in 10.14.2014, which aims to create in Ukraine a decision-making system on the anti-corruption policy based on the analysis of reliable data on corruption, monitoring implementation of these policies by an authorized agency and their impact on the anti-corruption situation. Also, there is a comment to the regulatory requirements for implementation in government and legal entities of anti-corruption programs and for legal obligations of companies, institutions and organizations in the anti-corruption area.

Section II is devoted to the analysis of characteristics of approved changes in anti-corruption restrictions in the forestry sector. Due to significant changes in addressing a special anti-corruption mechanism - the “conflict of interest” institute, its comment is presented in the next section of the article. In particular, there is the need for the distinction between the “potential conflict of interest” and the “real conflict of interest”, depending on the stage of contradiction impact that arose in decision-making or committing actions by an official.

The law passed in October 2014 is fundamentally changing the system of filing anti-corruption declarations that is significantly different from previous financial control mechanisms

of the “old” law. The legislator has regulated in detail numerous issues of filing declarations, their registration, disclosure, control and inspection. The aim of approved changes is to improve the inspection procedure for property status of the filing entities to determine the legality of their livelihoods, identify possible inconsistencies in lifestyles of dishonest officials. These changes are discussed in detail in Section IV of the article.

Final Section V of the article comments on a number of improved and new tools and mechanisms for counteracting corruption: a special audit when taking office, the “corruption plaintiffs” institute, operation of the Unified State Register of persons who have committed corruption or corruption-related offenses, enforcement of the rules of ethical behavior of officials authorized to perform functions of the State or local government. Also, general developments in the criminal and civil liability for corruption offenses are briefly discussed.

Based on results of the legislation analysis it could be argued that the majority of previous similar content norms in the Law of Ukraine “On Prevention of Corruption” have undergone significant changes, and many new requirements have been introduced that are difficult for interpreting by ordinary forestry professionals.

Therefore, this comment is designed to help forestry professionals, civil servants, law enforcement officials to understand the new legislative innovations and prevent possible violation of law.