

# THE EVOLUTION OF CONTROL STRUCTURES IN THE FORESTRY SECTOR FROM 1990 TO 2024

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## REVIEW ARTICLE

### Abstract

This article examines the evolution of control structures in the forestry sector, focusing on the attributions and the nature of the organization. Given that the organization and operation of these structures are governed by regulatory acts, the basic references are those related to legal aspects and their alignment with current realities in the field of forestry. The purpose of this material is to establish some key principles that need to be followed when modifying or creating optimal control structures in forestry, taking into account the experience gained over the last three decades and the economic, ecological, and social environment specific to the field in question.

**Keywords:** legislation, forestry, forestry control, forestry regime, forestry field, control structures

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### INTRODUCTION

Romania's forests occupy a significant share of the national territory (according to INSSE Statistics the forest area is 6459.9 thousand ha, while according to IFN Statistics the forest area is 6929.0 thousand ha). The management of this important resource has been a constant challenge, due to the environmental, social and economic impact it generates.

The forestry sector, as described by Nichiforel (2018), is a complex field that begins with the forest itself, whose management is carried out through silviculture, and is completed with the exploitation and the industrialization phase. (fig. 1)

Each of these sectors (forestry, exploitation, industrialization) requires both a specific, targeted approach and a holistic approach that takes into account both access to resources and the best way to use them.

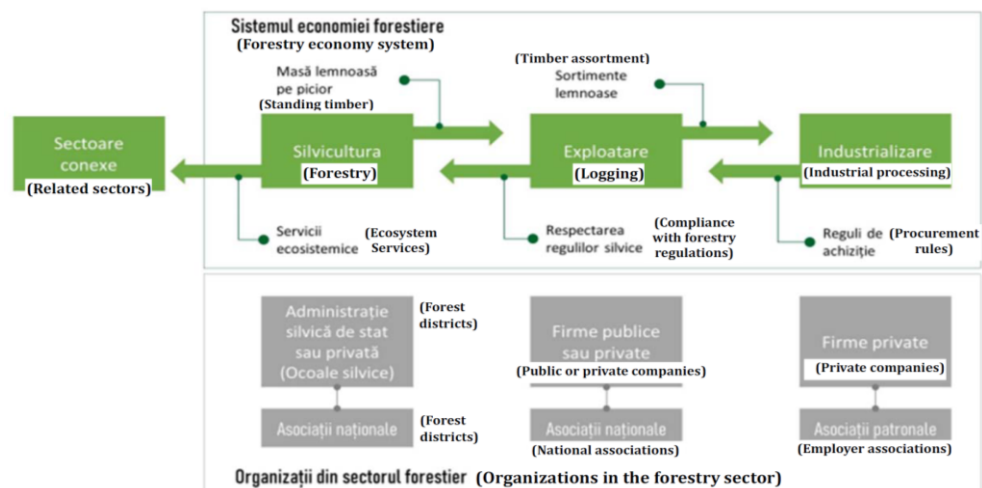


Figure 1 Organizations in the Forestry Economy Sector (Nichiforel, 2018)

With this in mind, the state has developed, over time, a series of legal provisions that regulate both the management of the resource (the forest) and the methods of forestry exploitation and even the industrialization of

wood. The legal framework for forestry dates back to 1786 when Emperor Joseph II issued the "Forest Decree for Bukovina". Later, in 1881, the first forestry regulation was published, the *Forestry Codex*, which was inspired by the

French forestry code. Since then, four other similar legal acts have been developed: the Romanian Forest Code of 1910, the Forest Code of 1962, the Forest Code of 1996 and the Forest Code of 2008. Each of these codes has undergone numerous amendments and additions over time. These changes have been driven primarily by political changes and shifts in ownership, the recognition of the ecological role of the forest, and evolving economic and social needs.

In the course of 2023, a new Forest Code was drawn up and, for the first time, this code is based on a medium- and long-term strategy (the National Forest Strategy 2030).

In addition to technical or administrative provisions, all of the aforementioned regulations also include articles or references to inspection and control activities in the forestry sector. With the development of society, the increase in demand for wood on the market, the need to develop agriculture or industry, and growing awareness of the role of the forest in maintaining the quality of life, the state has felt the pressure exerted on this resource and has taken increasingly decisive measures to protect it.

The earliest forestry regulations placed the responsibility for control primarily on the forest owner or the employed forester. Later, the need for establishing specialized entities with both administrative and control roles was identified. This shift in approach emerged as a result of diversified ownership, as well as the identification of the active role the state must play in the management of forests, as an asset of national interest

## MATERIALS AND METHODS

The analysis of the structures with control attributions in the forestry sector was carried out from both a legal and a functional perspective.

Two periods can be clearly distinguished with regard to the structure of forest ownership and its influence on the institutions with control functions:

-1990–1992: The forest was owned by the state;

-1992–2024: The forest is in both state and private ownership.

This second period in turn consists of three stages, each defined by the way in which forest properties were returned:

a) Law No. 18/1991 on Land Resources

This normative act allowed the restitution of forest property as follows: up to 1 hectare for individuals or their heirs and up to 30 hectares for former communal owners, undivided communes, or their heirs. According to Bouriaud (2008) and Herța (2014), *the result was, as can be seen in Table 1, a considerable fragmentation of forest properties, so that by 2007 there were almost 360,000 properties, with an average area of 60 ares (0.6 hectares).*

Table 1

**The evolution of forest areas by category of owners**

Surfaces (ha)	1947	1990	1996	1998	2000	2007
Total forest area	6.487.000	6.372.000	6.372.000	6.367.000	6.342.538	6.397.027
State public forests	1.878.723	6.372.000	6.033.322	6.028.000	5.998.784	4.093.061
Private forests owned by natural persons	1.514.486	-	338.678*	339.000*	343.754*	359.573*
Natural persons' average forest area	3,1	-	0,6	0,6	0,56	0,6
Forests belonging to different private legal entities	567.399	-	-	-	-	526.042 of which collective forests approx. 500.000
Forests of collectives (compossessorates, communes, wealth communities)	1.330.000	-	-	-	-	500.000
The average area of forests belonging to legal entities, including communities	-	-	-	-	-	332
Cult institutions	approx. 300.000	-	-	-	-	79.952
Forests belonging to the communes	1.761.000	-	-	-	-	863.094

Source: Bouriaud (2008)

\* Forests retributed according to Law No. 18/1991

\*\* Forests retributed according to Law No. 1/2000 and Law No. 247/2005

Although the state has retained a large part of the forest area since the implementation of this law, this excessive fragmentation of the ownership has had a severe impact on the restituted properties, most of which have been subject to illegal logging.

b) Law No. 1/2000 on the restoration of property rights over agricultural and forest lands, applied for in accordance with the provisions of the Law on Land Fund No. 18/1991 and of Law No. 169/1997.

This normative act supplemented Law No. 18/1991 and authorized the restitution of forest land as follows: restitution of a maximum of 10 ha (including the area restituted under Law no. 18/1991) in the case of natural persons or their heirs, restitution of the entire owned area, which cannot exceed the area resulting from the application of the agrarian reform of 1921, in the case of the former members of the associative forms of ownership of the lands with forest vegetation, compossessorates, undivided freeholder communes, border forests and other associative forms assimilated to them, and their heirs.

c) Law No. 247/2005 on the reform in the fields of property and justice, and certain related measures

This normative act allowed for the full restitution of the previously owned land, providing for compensatory measures when full restitution was not possible, regardless of the type of owner.

Unfortunately, the development of land restitution legislation was not accompanied by adequate forestry legislation. In the absence of an appropriate legal framework, the administrative and control institutions were not adapted to the changes regarding the structure and size of the forest ownership. The lack of clear regulations regarding the owners' obligations, administrative responsibilities and concrete management methods for small properties, correlated with the absence of dissuasive penalties and strong control structures led to and facilitated illegal logging. According to (the Romanian Court of Accounts 2013), "*The legislation on forest management and control was disconnected from the laws on property restitution, which had a disastrous impact on state-owned public forests.*"

Furthermore, the volume of illegally harvested timber between 1990 and 2011, as reported by the Court of Accounts (2013), underscores the above-mentioned issues. (Figure 2)

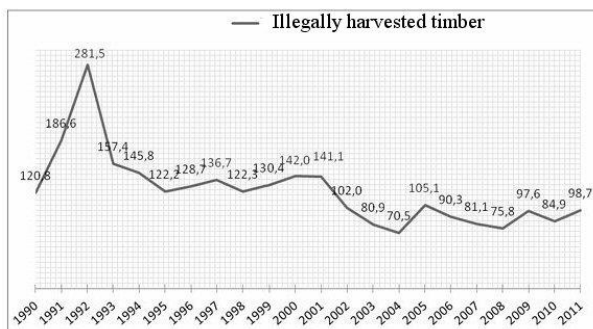


Figure 2 Illegally harvested timber 1990-2011

Source: (the Court of Accounts, 2013)

The main regulations, at the level of the Forestry Code, that regulate the activities of forestry structures in the period 1990-2024 are:

1. Law no. 3/1962
2. Law no. 26/1996
3. Law no. 46/2008

The Forestry Code of 1962 (Law No. 3/1962) defines in the very first article that forests "constitute (...) state property". It also defines the forestry regime as "a set of technical, economic and legal forestry rules regarding the development, cultivation, exploitation,

protection and guarding of this fund." This regulation also designates the entity that is responsible for forest administration and protection": "The Ministry of Forestry Economy establishes the technical forestry and protection rules applicable to land with forest vegetation, coordinates, guides and controls compliance with these rules." Chapter 4 of this Code, entitled "Protection and Guarding of Forests and Other Areas with Forest Vegetation", contains clear provisions regarding the persons or structures responsible for guarding duties. Thus, the entities with responsibilities in this field are: state enterprises for the forestry economy, socialist organizations with operational administration or use of forests. These duties are effectively carried out by "specialized technical personnel of state enterprises for forestry economy". Apart from these personnel directly involved in protection and control activity, the Forestry Code of 1962 also mentions other categories of personnel required to provide support or even conduct control activities: the executive committees of the popular councils, the bodies of the Ministry of Internal Affairs as well as road and railway wardens, forest owners and keepers. It should also be mentioned that this code contains provisions on the control of forestry operations and the circulation of wood material.

Law No. 26/1996-The Forestry Code defines in Art. 4 the types of forest ownership (public and private), and the fact that forests are assets of national interest. The central authority responsible for forestry is in charge of developing forestry policies and controlling the way in which the forestry regime is applied in privately-owned forests. At the time this Forestry Code was enacted, most of the forest areas were owned by the Romanian state, and thus, the responsibility for protection and control continued to rest with the National Forestry Administration. Prefects, county and local councils, as well as police and gendarmerie units, were appointed as supporting structures for forest protection activities. As far as private property is concerned, Law No. 26/1996, stipulates that the owner is responsible for the management and guarding of private property. The guarding of the forest could also be entrusted to the National Forest Administration, based on a contract. In this case, the obligations related to forest exploitation and the control of the

timber movement are maintained and regulated in detail. Additionally, with respect to control, this code also contains provisions on the control of installations for processing wood material into timber.

Law No. 46/2008 - The Forestry Code, promulgated three years after the last major amendment to the legislation on the restitution of forest land, took into account the fact that a significant part of the forest fund had become privately owned, requiring an adjustment in the approach to management and control. The National Forestry Administration remains the administrator of the state's publicly-owned forestry fund. The private forest fund, as well as the public property of the territorial administrative units can be managed through private forest cooperatives, or based on a contract for the provision of forestry services/administration with any forestry structure (state or private).

According to the Forestry Code of 2008, the state forestry authority is the central public authority responsible for forestry. Territorial structures are defined in order to implement forestry policies and to ensure control, and at the same time minimum area criteria for these structures are specified, as well as the size of the workforce. Thus, *the Forestry Subunits of the central public authority responsible for forestry are established at territorial or county level, having the minimum area of the forest*

*fund, as follows:*

- a) 60,000 ha in the lowland;
- b) 120,000 ha in the hill areas;
- c) 180,000 ha in the mountain areas.

Regarding the personnel employed in the territorial subunits of the authority, it is specified that *for an area of up to 12,000 hectares of forest fund, a forest engineer must be employed within the specialised territorial structures of the central public authority responsible for forestry.*

The control powers of the state authority are outlined in Article 102, as follows:

- a) *control over the implementation and compliance with the forestry regime in the national forest fund;*
- b) *control over the application of and compliance with the specific regulations in forest vegetation outside the forest fund;*
- c) *control over the movement of wood materials, processing plants, and timber storage facilities;*
- d) *control over the movement of non-timber products from the national forest fund.*

It can be observed that, by defining these control responsibilities, the entire forestry field is covered (forestry, forest exploitation, and industrialization).

Tables 2 and 3 provide a brief overview of the development of official control structures in the forestry sector, both at central and territorial level.

Table 2

**Chronological evolution of the central public authority responsible for forestry**

Name of the entity	The normative act of establishment	Period
Ministry of Forest Economy	Decree 162/1948	1948-1990
Ministry of Environment	GD no. 687/1990	1990-1992
Ministry of Waters, Forests and Environmental Protection	GD no. 792/1992 regarding the organization and operation of the Ministry of Water, Forests and Environmental Protection	1992-2001
Ministry of Agriculture, Food and Forests	GD no. 12/2001 regarding the organization and functioning of the Ministry of Agriculture, Food and Forests	2001-2003
Ministry of Agriculture, Forests, Waters and Environment	GD no. 739/2003 on the organization and functioning of the Ministry of Agriculture, Forests, Water and Environment	2003-2004
Ministry of Agriculture, Forests and Rural Development	GD no. 409/2004 on the organization and functioning of the Ministry of Agriculture, Forestry and Rural Development	2004-2007
Ministry of Agriculture and Rural Development	GD no. 385/2007 regarding the organization and functioning of the Ministry of Agriculture and Rural Development	2007-2009
Ministry of Agriculture, Forests and Rural Development	GD no. 8/2009 regarding the organization and functioning of the Ministry of Agriculture, Forests and Rural Development	2009-2009
Ministry of Environment and Forests	GD no. 1,635/2009 regarding the organization and functioning of the Ministry of Environment and Forests	2009-2013
Ministry of Environment and Climate Change	Decision 48/2013 regarding the organization and functioning of the Ministry of Environment and Climate Change and for the alteration of some normative acts in the field of environment and climate change	2013-2015
Ministry of Environment, Waters and Forests	GD no. 38/2015 regarding the organization and operation of the Ministry of Environment, Water and Forests	2015-2017
Ministry of Waters and Forests	GD no. 20/2017 regarding the organization and functioning of the Ministry of Water and Forests	2017-2020
Ministry of Environment, Waters and Forests	GD no. 43/2020 regarding the organization and functioning of the Ministry of Environment, Waters and Forests	2020- present
National Forest Guard	GEO No. 77/2021	

Table 3

**The evolution of the territorial structures of the central public authority responsible for forestry**

Name of entity	The regulatory act	Number of entities at national level	Number of personnel allocated according to normative acts
Territorial inspectorates for forestry and hunting management	GEO no. 96/1998 regarding the regulation of the forestry regime and the administration of the national forest fund	unspecified	1 forest engineer/20,000 ha forest fund, 1 forest engineer or technician/10,000 ha forest fund
Territorial forestry inspectorates	Law no. 141/1999 for the approval of Government Ordinance no. 96/1998 regarding the regulation of the forestry regime and the administration of the national forest fund	unspecified	1 forest engineer inspector/20,000 ha forest fund, 1 forest engineer or technician/10,000 ha forest fund
Territorial inspectorates for Forestry and Hunting Management	Law no. 75/2002 for the amendment and completion of Government Ordinance no. 96/1998 regarding the regulation of the forestry regime and the administration of the national forest fund, republished	unspecified	1 forest engineer inspector/20,000 ha forest fund, 1 forest engineer or technician/10,000 ha forest fund
Inspectorates for Forestry and Hunting management under the National Environmental Guard	Decision 761/2003 for the reorganization and operation of the National Environmental Guard	8	259
	Ordinance 41/2004 on the establishment of territorial forestry and hunting regime directorates	8	102
Forestry and hunting inspectorates	GD no. 333/2005 for the reorganization of the forestry and hunting territorial directorates into forestry and hunting territorial inspectorates	9	361
Commissariats for Forestry and Hunting Management	GEO no. 58/2012 regarding the modification of some normative acts in the field of environmental protection and forests	9	662
Forest Guard	GEO no. 32/2015 regarding the establishment of Forest Guards	9	1007
Forest Guard	GD no. 743/2015 regarding the organization and operation of the Forest Guards	9	602
Forest Guard	GEO no. 77/2021 regarding the establishment of the National Forestry Guard	9	922

**DISCUSSIONS AND CONCLUSIONS**

The enforcement of compliance with forestry regulations within the publicly-owned forest fund was consistently ensured by the National Forest Authority. However, the private forest fund has been the most vulnerable to illegal logging. Although the obligations to monitor and guard these forests were assigned to private owners or administrative structures, these responsibilities could not be enforced for a long period (1992-2005) for objective reasons:

- Insufficiently regulated legal framework;
- Fragmentation of properties;
- Owners' inability to guarantee the security of the forest;
- Social and economic pressure on wood resources;
- The reluctance of owners toward association and toward state forestry management structures.

The central authority responsible for forestry has been administered by ministries responsible for either agriculture or the environment, which has affected the stability and strength of this structure.

The emergence of some territorial structures of the public authority responsible for forestry, has created the premises for

reducing illegal logging, overseeing forest operations, controlling the movement of timber materials, and monitoring wood processing facilities, thus covering the entire forestry sector. These entities have maintained a stable territorial jurisdiction from 2005 to the present.

The responsibilities of these entities have increased significantly over time, with many of the tasks being detailed and supplemented as a result of the evolution of forest management regulations. While the original regulations outlined around 10 general duties, formulated in a general way, the latest Regulation on the Organization and Operation of the Forest Guards, approved by Ministerial Order No. 2185/08.10.2024, contains a number of 219 attributions of a technical nature.

The number of employees in the regional structures has fluctuated significantly in terms of regulatory requirements (from 259 to 1,007 employees). Despite these regulations, for a very long period, regional structures operated with a personnel shortage, due to insufficient funding, low attractiveness due to salary levels, hiring freezes by central regulations, and structural changes.

In conclusion, the effectiveness of forest control is contingent upon adherence to the following principles:

- A stable, coherent legal framework adapted to the realities of the sector;
- Stability of the control structure regarding territorial competence, responsibilities, and allocation of personnel and material resources;
- High professionalism among personnel within these institutions;
- Consideration by the central public authority of feedback from territorial structures;
- Efficient and transparent communication of activities and results.

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- \*\*\*Law no. 75/2002 for the amendment and completion of Government Ordinance no. 96/1998 on the regulation of the forestry regime and the administration of the national forest fund, republished
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- \*\*\*GEO no. 58/2012 amending Certain Regulations in the Field of Environmental and Forest Protection
- \*\*\* GEO no. 32/2015 regarding the establishment of Forest Guards
- \*\*\* GEO no. 77/2021 on the establishment of the National Forest Guard
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- \*\*\*GD no. 385/2007 on the organization and functioning of the Ministry of Agriculture and Rural Development
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