

## **A Comparative Analysis of Legal Regulating of Hunting Relations in Uzbekistan**

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### **ABSTRACT**

*In this article comparative analyzed legally framework of hunting relations in Uzbekistan. In addition, the other countries practice also comparative analyzed, such as Ukraine, Slovakia and other European countries. As the result of analyzed materials and statistics, author give some suggestions and recommendations for increase of legal framework of hunting relations in Uzbekistan. Because Uzbekistan has paid more attention to the implementation of consistent socio-economic and environmental policies aimed at protecting the environment and the rational use of natural resources, including biological resources. This article provides an analysis of hunting relation and hunting society relations in Uzbekistan.*

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In recent years, the country has paid more attention to the implementation of consistent socio-economic and environmental policies aimed at protecting the environment and the rational use of natural resources, including biological resources.

The Law of the Republic of Uzbekistan "On Hunting and Hunting", developed by deputies of the Legislative Chamber of the Oliy Majlis on the right of legislative initiative and signed by the President on July 8, is one of the main legal frameworks regulating the rational use of biological resources.

Relations in the field of hunting and hunting, aimed at the use of wildlife objects, have been legally regulated by more than 10 legal acts in Uzbekistan. This, in turn, has led to various contradictions and interpretations, complications in law enforcement practice. Moreover, the main directions of state policy in the field, there is no effective system of state monitoring of wildlife. Also, the fact that the rights and obligations of hunters and hunting farms are not clearly defined in the legislation hindered the development of the state monitoring of hunting resources, the study of the number and volume of game species hunted in the country, their reproductive status.

One of the most important sectors of the economy is the development of tourism. In our country, there is an opportunity to fully use the opportunities of hunting tourism, in particular, to attract foreign tourists to the hunting industry, to increase foreign exchange earnings to the state budget, and to finance expenditures through breeding, restoration and reproduction of game animals.

The Law of the Republic of Uzbekistan «On Hunting and Hunting societies» determines regulation of hunting relations in our country. In the process of drafting this law, international conventions and agreements, as well as the legislative practice of countries such as Germany, France, Japan, Russia, Belarus, Poland were studied. The purpose of this law is to regulate relations in the field of hunting and hunting, as well as hunting activities carried out in the territory of the Republic, which can be a source of

income for the economy of the country. [1]

Article 3 of this law clarifies the concept of “hunting”. According to this article hunting is the search, tracking and pursuit for the purpose of prey, attempt to prey or prey (shooting, trapping) of wild animals (their metabolic products) living in a state of natural freedom.[3] Hunting is equivalent to:

being on the territory of hunting grounds with hunting weapons in an uncovered state (in assembled form) and other types of hunting tools or hunting products;

presence on public roads of persons with hunting weapons in an uncovered state (in assembled form), without documents certifying the legality of hunting products (a hunting license, a permit for hunting wild animals, a hunting permit (cards for hunting wild animals).

It is not a hunt to be on the territory of hunting farms of employees of the protection of hunting farms with service weapons in the performance of their official duties.

In addition, Article 5 of this law refers to the concept of "hunter". According to this article a hunter is an individual who has a valid hunting license, including a foreign citizen temporarily staying in the Republic of Uzbekistan and who has concluded an agreement on the provision of services in the field of hunting.

An employee of the protection of the hunting economy is not a hunter in the performance of his official duties.[4]

Let us now turn to the foreign experience of the legal regulation of hunting and hunting-related relations. In particular, we will focus on the legal regulation of hunting in Ukraine and the European Union. Close cooperation with the European Union, where the protection of the environment plays an important role may benefit Ukrainian citizens and its economy. Considering the fact that the EU focuses on community development, sustainable use of natural resources and the promotion of international cooperation in addressing global, national and regional environmental problems – among major expectations of professionals an important place have prospects of growing positive impact on the wildlife and biodiversity protection, and therefore, sustainable development of hunting economy in general. Legislation on hunting of the European Union countries differs among themselves. However, it should comply with previously adopted EU directives, such as the Birds Directive (1979), Habitat Directive (1992), etc.[6] Despite the shared common approach in the hunting economy management some EU countries have their own specific traditions, conditions, the number and species diversity of game animals. Therefore, coordination and harmonization of hunting and game management regulations will take some time in a united Europe.

Among other critical aspects, close cooperation with the European Union is aimed also at sustenance and improvement of the environment conditions. This cooperation is intended to resolving issues in sustainable use of natural resources and to strengthen international cooperation at the global, national and regional levels.[5] As the environment problems have no borders. During the process of obtaining the EU membership, hunting industry may appear in the new legal situation. Therefore, we shall consider the main basic legislative acts that influence policy-hunting in the EU. Primarily, it refers to such legally binding documents the EU directives, as the Bird Directive (1979), Habitat Directive (1992), Firearms Directive (1991) and Wild Game Meat Directive (1992).

It should be noted that Ukraine have joined the most of the international agreements and assumed the obligation to implement them into the political and legal framework. For more details of the international environmental related agreements please visit Ministry of Justice of Ukraine site: <http://old.minjust.gov.ua/45875> and for game meat export related – <http://old.minjust.gov.ua/45883> (both in Ukrainian). Hunting for wild birds in the EU is regulated by the Bird Directive and is authorized only for certain species (82), which can be hunted just outside of the rearing grounds and during rearing (or spring) migration periods, which is crucial to the restoration of of wild birds populations.[7]

Hunting for other wild animals is limited primarily by the Habitat Directive and derived from them acts. Hunting periods are set at national level based on available reliable data, scientific principles, and vary depending on the type and geographical location of hunting grounds.[8] However, the EU countries have the right to authorize or prohibit the hunting of these species, and in exceptional cases, the birds could be

hunted outside the established hunting season when there is no alternative solution.

## **Ukraine**

The area of hunting – 600 thousand sq.km, population – 45 million. The number of hunters is over 300 thousand (percentage of the population is 0.7). Hunting relations are regulated by Law of «On game management and hunting» in 22 February in 2000. Specially authorized body for hunting in Ukraine is The Ministry of Agriculture and Food acting jointly with the Ministry of Environment. As part of Ministry of Agriculture and Food there is operating State Forest Resources Agency. Following the next management structure:

- Regional forest authorities;
- State district (interdistrict) forest enterprises

Hunting animals in Ukraine territory are living in the wild - a natural resource of national significance. The owners are the people of Ukraine. On behalf of the people the ownership rights are performed by state authorities and local governments. The animals legally taken out from the natural environment or bred in free or semi-free conditions may be privately owned by legal entities and individuals.

The hunting grounds are rented for use by the Regional Council on the base of proposal made by State Forest Resources Agency which previously should be agreed by regional administrations and the owners or users of the land. Any legal entity can become a hunting land user if it created a specialized unit for hunting management purposes. The payment for land use is defined in the agreement between the user and the owner of the land where hunting grounds are situated. Term of use - at least 15 years. Previous user has a preferential right to extend the lease.

Hunting group societies are not a separate legal entity and therefore not economically independent body and is not a subject to game management market operations. The National Union of Hunters divided into regional and local organizations which are legal entities. A Union membership card does not give the right to hunt. A hunters ticket that gives the right to hunt is issued by regional forest authorities.

To be able to hunt a hunter must have a hunting card, a control card, permit for hunting or license. A hunting card and a control card are issued by authorities of State Forest Resources Agency. A permit for hunting or a license is issued by a hunting grounds user. The validity of a hunting card is unrestricted, validity of a control card - 1 year, a permit for hunting or license - 1 day. Cost of a hunting card is equivalent to \$ 4; a control card – \$ 1; a hunting permit – \$ 2-5; a license (depending on the type of a game) – \$ 10-50. Small game is hunted with a permit and ungulates – with a license

A hunter can get for free small game and ungulates sub-products but the ungulates to a user. Hunters redeem ungulates meat from a user. The cost of hunted ungulates depends on type and weight and could be between \$ 100-700. Compensation for game wildlife damages: Mechanism of a compensation for game wildlife damages to agriculture producers and forestry is not developed.

In case of violation of hunting legislation there is imposed an administrative penalty between \$ 5 to 50. For repeated violations, or where it resulted in the animal extraction the fine is 50 to 100 \$. In this case hunting equipment owned by the hunter should be confiscated. If case of criminal liability for illegal hunting, there are fines from 85 to 170 \$ or imprisonment up to 3 years. Hunting equipment should be confiscated. Besides to administrative or criminal liability offender should pay for damages for illegally extracted animals. For example: the deer - \$ 750; boar - \$ 500; roe - \$ 400; hare - \$ 25; pheasant - \$ 25; wild duck - \$ 12. Fines are directed to the state budget. Paid damages are transferred to a hunting grounds user where a game animal was extracted illegally. [2]

## **Poland**

The area for specialized for hunting – 312 thousand sq.km, population – 38 million. The number of hunters is over 100 thousand (percentage of the population is 0.26). Relationships are regulated by Law of hunting in 16 June in 2009. Specially authorized body for hunting in Poland is The Ministry of Environment operates with Ministry of Agriculture and the State Council for Nature Conservation and the Polish Hunting Union (PSM). Hunting administrations are subordinated to a local governor.

The hunting grounds are rented for use to a hunting society group at the suggestion of PSM following the agreement by local governor and head of respective institution:

- forest – by a Director of a Regional Directorate of Forests;
- fields – by a village chief, who is performing relevant duties in its local administration.[1]

Term of lease is at least 10 years. Previous user has a preferential right to extend the lease. The payment for land use is determined depending on the category of the hunting ground but cannot exceed the value of 100 kg of rye per 1 ha. Payment is transferred to the relevant state forest enterprise for state forests or to a local community for the rest of the area.

Hunting group societies have a legal entity status and therefore economically independent and are the subjects to game management and free market economy operations. The National Union of Hunters divided into regional offices. A Union membership card gives the right to hunt. Some functions of state authority concerning hunting is transferred to the Polish Hunting Union.

A hunting grounds user shall employ at least one guard. The guard is an employee at the institution subordinated to local government although salary should be paid by the user. To be able to hunt a hunter must have a hunting card and a user permit. Compensation for game wildlife damages Compensation should be paid by a user. Damage should not be reimbursed if the agriculture producer does not comply with the farming rules, did not protect its land from the wild animals and if the damage is less than the cost of 1 hundredweight of rye.

Law enforcement specifics: for minor violations - monetary penalties; For possession of equipment for poaching or unauthorized use of game, etc. - imprisonment up to one year; For hunting in the forbidden period using poisons, artificial light traps, loops, destruction of burrows - up to 5 years of imprisonment.

Slovakia

Area – 48.9 thousand sq.km, population – 5.4 million. The number of hunters is to 50 thousand (percentage of the population is 0.9). Relationships are regulated by Law of “On hunting” in 1<sup>st</sup> March in 1997. Specially authorized body for hunting is the Ministry of Agriculture acting together with the Ministry of Environment and Slovak hunting society. Following the next management structure:

- Regional forest authorities;
- District forest authorities

The hunting grounds are rented for use by a regional forest authority if there is a permission of landowners who own two-thirds of the amount of land provided as hunting grounds. Term use of lands is 10 years. The law establishes the payment for land use - 1 EUR / ha per year. For example: in forest where there is a deer breeding area at the first group (site index) for spotted deer – 1 EUR is paid. If there are the other types copayment exists for: boar - 0.41 EUR, European deer - 0,20, doe - 0.25, mouflon - 0.25. There are 5 groups (site indexes). Thus, the first group the rate is equivalent to 2.11 EUR / ha, for fifth group - 0,32 EUR/ha. For small game (rabbits, pheasants, ducks and other species) in the first group the rate is 0.70 EUR / ha. For the fifth group rate, it is 0,23 EUR / ha The rent is paid to the owner of the land.

Hunting group societies have a legal entity status and therefore economically independent and is subject to a game management and free market economy operations. The National Union of Hunters divided into regional offices. A Union membership card gives the right to hunt. The Union can receive subsidies from the state budget.

A hunting grounds user submits for approval to the forest district authority a hunting guard for every 500 ha operating on a voluntary basis. In addition, for every 3 thousand ha it has to hire a professional gamekeeper with appropriate education, and for the land area of over 10 thousand ha – a professional gamekeeper should be of higher special education. To be able to hunt a hunter must have a hunting card and a user permit. Validity of a hunting card is 1 or 5 years. The term of a user permit is different.

A hunter can get for free game with observance of certain rules. Hunted game belong to a user. Compensation should be paid by a user if he violated the law. Damage should not be reimbursed if the



landowner violated the law. Violations are seized by a forest enterprise. The penalty for individuals from 30 to 3 000 EUR. The penalty for ground users from 50 to 5,000 EUR for: - absence of hunting guide during the hunt; - not using of hunting dogs; - not evaluating of a trophy. The penalty from 5,000 to 15,000 EUR for: - failure to manage sex and age structure of the game livestock; - violation of the law obligations; - selling game meet in violation of the law; - failure to notify police about the poaching case. Fines are directed to the state budget.

## Conclusion

Thus the legal hunting framework of the European Union is quite complex. There are a number of legal documents (Directives), which in many cases are the result of international agreements, and their derivatives (regulations, decisions) that affecting the internal law of each of the participating EU countries. They, above all, regulate hunting management principles and gaming methods for sustainable (rational) natural resource use and, in this connection, require coordination of different management plans of different hunting grounds. First of all it concerns the implementation of the so-called Natural ("Birds" and "Habitats") Directives to manage populations to a level that would not put at risk the normal development of the game and especially protected wild species.[9] However, there is no one common EU law, which regulates the only hunting management of all the EU countries at the very bottom level and there is still an internal matter of implementation or reasoned derogations from the issued provisions of each of the states in regards to some species. Thus, a list of game species is established by national authorities. For each type of game there is agreed a hunting period which is slightly corrected in different counties. Nevertheless modern hunting principles in the European Union should be based on the approaches set out in the "European Charter on hunting and biodiversity conservation" fulfilling all other obligations depending from the aspects they have on their grounds or they intend to get involved into that are regulated by different the EU legislation. [1]

In general the structure and content of the Law of Ukraine "On game management and hunting" is correlated with the relevant laws of Poland, Slovakia and Hungary.[10] However, as a result of a historical, economic, social, and cultural development of Ukrainian society, established traditions, particularly in the field of hunting and shooting, Ukrainian hunting has not reached a certain level of development as in countries above. We believe that one of the main reasons for the limiting development is complete exclusion of hunting society groups of Ukrainian Society of Hunters and Fishermen from the economic process. The hunting society groups of this Union are a regional association of hunters with 1 - 1.5 thousand members who lease the land area of 100 or more thousand ha. This model shows its inefficiency. As a result, there is low number of game animals, poaching. The Law requires improvement on development mechanism of payment for hunting grounds and compensations for game animals damages to forestry and agriculture. Because of such the small number of hunted animals in Ukraine, there is no properly developed market for game, trophy and the hunting celebrations just starting to occur.

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