

**N.G. Yurchyshyn**

Candidate of Law Sciences,  
Assistant Professor of Labour,  
Environmental,  
Land and Agrarian Law Department,  
Ivano-Frankivsk Faculty of the  
National University  
"Odesa Law Academy"

## **FORMS OF REALIZATION OF RIGHT OF PRIVATE OWNERSHIP ON FORESTS IN UKRAINE**

The problem of realisation of private property right on forests in Ukraine is inevitably linked with the concept of the mechanism of legal regulation and legal forms of law in general. In the general theory of law, it is believed that in the mechanism of the right realisation one of the most important elements are the substantive rules of law which by the nature of the alleged conduct of the rules are binding, preventing, empowering [1, p.131]. At the same time, along with the substantive law legal procedures are distinguished that are part of an independent mechanism for implementing the law [2, p.373, 3, p.17]. Procedural rules are established or authorized by the state mandatory rules of conduct for public bodies and their organizations, and citizens in their participation in the process, to which the achievement of a certain legal result or application of substantive law. In other words, the procedural rules facilitates the realization of substantive law [3, p.17].

The elucidation of the question of forms of private ownership of forests is not only theoretical but also practical. After separation of forms of private ownership of forests will help identify ways, means and methods by which the law may affect the acquisition of ownership of forest land plots subjects of law.

It should be emphasized that the legal literature specifically investigated the issue of forms of private ownership of forests in Ukraine, which adversely affected the quality of legislation on ownership of forests and the effectiveness of their use in the protection of subjective rights of forest Ukraine and entities in acquiring ownership of this natural resource. Thus, the problem of implementation and ownership of other natural resources have long been studied in the science of land, environmental and natural resource law in Ukraine.

Research on theoretical issues and implementation of property rights to other natural resources devoted considerable attention to scientists. In particular, these questions examine in his writings V.I. Andreytseva, A.P. Getman, P.F. Kulynych, V.P. Nepiyvoda, V. Nosik, V.I. Semchyk, J.S. Shemshuchenko, S.M. Shershun, N.V. Shulga, V. Yanitsky and other scientists.

In this regard, the foregoing necessitates setting as a goal the study definition of forms of private ownership of forests in Ukraine.

First of all, it should be emphasized that the implementation of any subjective rights (including the right to private ownership of forests) should be based on sequential actions that must be regulated to a certain order, procedures and

mechanisms. In this case, depending on the complexity and nature of the following subjects in theory right identified two forms of law: a simple, direct, which includes compliance, implementation and use; complex mediated (with the state), which involves the use of [4, p.388].

However, there are other classifications of forms of law. In this regard, V.S. Nersesyants identifies the following criteria for the classification of forms of law: 1) in terms of the level (depth) of the provisions contained in the regulations: the implementation of the general requirements contained in the preamble of laws, articles that reinforce the general objectives and principles of law and legal activities, implementation (outside of law) general rules that establish the legal status and competence, the implementation of the specific relationship of specific legal provisions; 2) subject to the right: Individual and Collective [5, p.423].

However, in our opinion, is the most appropriate classification of forms of private ownership of forests in Ukraine is the use, performance, compliance and application, since these forms provide an opportunity to land forest areas to exercise their rights and exercise them under the current forest legislation.

In the theory of law, it is believed that the observance of the rights of subjects of everyday behaviour is characterized by legal prohibitions. There is no active human activity, to comply with prohibitions enough to refrain from committing acts that are prohibited by law [6, p.13]. It is a form of law, in which subjects refrained from exercise prohibited by the law of action [7, s.330, 8, p.116]. Thus, a feature of the right is the passive behaviour of its subjects.

In terms of land rights, V.P. Yanitskyy compliance sees as a form of law in which the legal entity relates their behaviour to legal restrictions [3, p.16]. The same position holds V. Nosik [9, p.315].

In this case, especially as a form of respect for the right is that: it is characterized as generally passive behaviour of law which is apparent in the failure to perform illegal actions, it is the most universal form of law that covers all subjects objects (individual and collective), it applies to legal restrictions, carried out specific legal relationship.

From the standpoint of natural resource law, respect as one of the forms of private ownership of forests is dependent on the actions that are prohibited by the rules of forest, land and environmental legislation. However, the current LC Ukraine bans: illegally cut and damage trees and shrubs, destroy or damage as a result of forest arson or careless handling of fire, pollution, chemical and radioactive substances, industrial and household waste, sewage, and other harmful substances, flooding, drainage and other types of harmful effects; clog forests household and industrial waste, violate the terms of reforestation and other requirements for forest management, the legislation in the field of protection, use and reproduction of forests, destroying or damaging forest plantations, seedlings or seedlings in forest nurseries and plantations as well as natural growth and self-seeding on land designated for regeneration [10].

Compliance as one of the forms of law are closely linked to performance. But if compliance is expressed in the passive behaviour, the implementation of the law allows for vigorous activity, in which binding rules are implemented. Thus, the performance serves as a form of active entities with their obligations [6, p.14]. When

the right actors perform their duties, functions, powers, thereby realizing the relevant legal rules [7, p.331].

In terms of land law V. Nosik and V.P. Yanitskyy express a position to implement the law, where there are actors on the implementation of the obligations imposed upon them land and legal requirements [9, p.315, 3, p.16].

According V.I. Semchyk most precise content of the right recreated it in such form as execution. He believes that such land and legal norms designed along with other legal means to ensure proper results guaranteed, laid certain rules of conduct which are then accurately and consistently carried out, transferred into actual land relations, to become in life, realized in the active role of the sub the objects of law [11, s.171].

Thus, the characteristics of performance as a form of law is that it applies as a rule binding rules, resulting in the active conduct of legal subjects, is mandatory.

In this case, unlike the previous one, the performance as a form of private ownership of forests in Ukraine, there are specific legal forest. Thus, forest relationship arising between subjects of law, established between them a clear legal relationship that gives rise to the emergence of legal facts for the acquisition of land in private ownership of forest land.

Usage rights are a form of subjective rights, at which the implementation of the empowering provisions. If compliance and enforcement related to the implementation of legal obligations, it requires the use of subjective rights are legally guaranteed permits [6, p.14-15].

Yanitskyy V.P. believes that using - a form of law, which is reflected in the implementation of the opportunities arising from permits. In his view it is the active behaviour of the subjects of the land law. It applies to subjective rights, the rights of its own active behaviour, the use of facilities provided by the Land Law [3, p.16]. Something similar idea was expressed V. Nosik considering using as a form of land ownership, which is the practical realization of the opportunities provided by land-law and other regulations, the implementation of subjective ownership for their own interest [9, p.315-316].

In this regard, the use of law as a form characterized by a certain degree of active behaviour. The use of subjective rights occurs in the form of specific relations. This form of law is always legally due, and related compliance and enforcement that serve as a guarantee of proper and effective implementation of legal norms. In addition, the use of inherent voluntary, and therefore one can not make use of subjects of their rights.

Given the above, used as a form of exercising the right of private ownership of forests in Ukraine provides for the implementation possibilities of citizens and legal persons in respect of ownership of forest land plots, forest products, which are growing and their use in the manner specified forest, land, environmental legislation of Ukraine. Moreover, this form of law provides for compensation in cases provided by law, purchase or otherwise acquiring forest land plots, construction as appropriate industrial and other buildings and structures necessary for forest management and utilization of forest resources and so on.

With regard to this, owners of forest land owners should be focused on efficient multiple use forest products from the forest to ensure economic viability and receive a wide range of environmental and social benefits. Keeping the private

forestry should encourage investment that will support environmental and economic performance of the forest.

However, at the present stage of economic processes in the energy sector of Ukraine, it is important to use the energy of used wood as a renewable source of energy. With effective use of forest owners can procure this wood, which by its calorific value can replace about 1 billion m<sup>3</sup> of gas [12, p.43]. This form of use of forest products, will provide annually the implementation of at least one processing facility for the production of fuel from wood chips and waste wood unsuitable. After all, resources of forest branch contain about 4.0 million m<sup>3</sup> free energy suitable timber [12, p.43].

In this respect, it is interesting experiences in Austria, which is in the use of wood for energy is one of the leading EU countries, which receives enough energy from renewable sources. Austria has produced an extremely wide advertising energy use of wood and is state policy to encourage energy consumers and producers of wood suitable thermal power equipment, which allows foresters to provide low-quality wood and sales of firewood and receive additional income [13, p.11].

In this case, the use of a form of private ownership of forests in Ukraine is the economic basis for the efficient conduct of private forestry, and the amount of forest resources located in forest areas of land are set so as to ensure continuity of forest ecological and economic functions. However, due to the use of forest resources, individuals and legal entities - forest owners - get money for their reproduction of forestry, forest security and other events.

Compliance, the use and implementation of both forms of private ownership of forests in Ukraine corresponds to enforcement activities of the public administration, governance, local governments, courts, law enforcement agencies and officials associated with the adoption of normative and individual acts in the regulation of ownership to the appropriate forest land plots, aimed at the organization of citizens and legal entities established norms of forest law regulations and obligations, as well as the creation of legal conditions for the lawful behaviour of forest relations.

So, another special form of subjective right is using. This form of law is reflected in the activities of the competent authorities of the state and local government officials with the implementation of the law to specific situations that occur through the imposition of individual acts of law.

In terms of land law, land use law always involves the participation of state agencies or other entities of land relations that organize the implementation of rights and therefore use a feature, unlike other means of land law (performance, compliance, use) is the implementation of legally significant actions aimed at implementing the land entrusted to members of subjective legal rights and legal obligations [14, p.155]. However, according to V.P. Yanitsky, executive agencies or local governments and other actors during the procedure of land rights have functions of land-use law. However, they must follow certain procedures of management, certain land procedural rules [3, p.17].

As the V.V. Nosik, describing enforcement in terms of land rights, its objective determinism due to specific features of the land as an object of property rights, especially of subjective ownership of the land, and enshrined in the Constitution of Ukraine powerfully-willed nature of public authorities and local

governments. With these factors in Ukraine conversion of land rights may not yet be no enforcement of acts of State or local government [9, p.318].

In this case, one could argue that a characteristic feature of the application as a form of private ownership of forests is that citizens and legal entities entitled to exercise this natural resource only after the state authorities and local self-government solutions in the form of enforcement acts. In addition, individual acts of rights of state and local governments, courts, prosecution and other competent authorities expressed the results of actions which support the requirements of legal norms in government forest law-enforcement.

Thus, based on the analysis of theoretical and statutory provisions, we can conclude that the realisation of private property right on the forests in Ukraine is viewed through the prism of the following forms: compliance, implementation, use and application. In terms of scientific and practical value this classification allows to provide a balance of personal, public and social interests not only of subjects of private ownership of forests in Ukraine, but also the natural resources of all business relationships in general. In this case, for citizens and businesses it is important in practice, to create a real possibility of entry and the ability to realise the right of private property of forest land plot to meet first of all their own needs, without disrupting public, collective and other interests of private property subjects for other natural resources.

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