

## CASE 17

# DEVELOPMENT OF NEW FOREST LEGAL AND REGULATORY TECHNICAL FRAMEWORK IN MONTENEGRO (2008–2010)

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**Country: Montenegro**

**Sector: Forestry**

### CONTEXT

Forests and forest land cover 54% of the country's surface and are a very important natural resource in Montenegro. The average growing stock on the forest and forest land amounts to 100 m<sup>3</sup> per hectare. One third of the forests and forest land is privately owned and predominantly scattered in small holdings. Private owned forests are in poorer condition than those that are state owned. In spite of this, forests play an important role in mitigation of rural poverty, as well as the rural and national economy. They are also important for the conservation of nature and protection of the environment.

SNV initiated technical support to the Montenegrin forest sector in 2006. The support was firstly oriented to establishing private forest owners associations (PFOAs) at municipal level. By the middle of 2008, eight municipal PFOAs were established, representing a majority of private forests of Northern Montenegro. Also the National Private Forest Owners' Association (NPFOA), serving as umbrella organisation, was established with SNV support. In parallel to the establishing of PFOAs from 2007 to 2008, SNV technically supported and facilitated the development of a National Forest Policy (NFP), in collaboration with the Lux-Development "Forest Sector Development in Montenegro (FODEMO)" project. Within that support, SNV took particular care to ensure the involvement of, and articulation of private forest owners (PFOs) interests. The resulting, inclusive NFP document was adopted by the Government in 2008. The document serves as the policy framework for development of new Forest Law (FL), new Forestry Strategy (FS) and corresponding Budget Programmes (BPs), as well as related institutional reforms and building of human capacities.

Based on good experiences and results in the described technical support, the adopted NFP commitments and the expressed needs of the Ministry of Agriculture, Forestry and Water Management (MAFWM), further support of SNV to Montenegrin forest sector became essential and required. In addition to ongoing support to the private<sup>1</sup> forestry sector, it included the creation of a new legal framework for the forestry sector as a whole.

This case study includes technical support to development of forest legislation and regulatory technical framework under an MOU with the following two AAs (for the period September 2008 - January 2011):

- a) Development of forest and related legislation in Montenegro (9/2008 - 12/2009, extended to 5/2010) - client the MAFWM Ministry of Agriculture, Forestry and Water Management).
- b) Strengthening regulatory technical framework and human capacities for sustainable forest management with particular attention to private forests (9/2010 - 1/2011) - clients the MAFWM, the Forestry Administration (FA) and the NPFOA (National Private Forest Owners' Association).

<sup>1</sup> This assistance was carried out under the following four AAs:

- a) Further establishment of NPFOA and remaining municipal PFOAs in Montenegro (6/2008 - 12/2009, extended to 3/2010) - client the NPFOA;
- b) Organizational development, training and advocacy skills of NPFOA (3/2009 - 12/2009) - client the NPFOA;
- c) Strengthening private forestry in Montenegro (9/2008 - 8/2010) - client the FA;
- d) Strengthening private forestry and related forest owners associations' capacities in Montenegro (11/2008 - 8/2010) - client the NPFOA.

## CLIENTS AND PARTNERS

The main forestry stakeholders involved in the technical support were the Forest Administration (FA), the Private Forest Owners' Association (PFOAs) and the state forest concession holders. The main beneficiary was the Ministry of Agriculture, Forestry and Water Management (MAFWM).

The technical support is in line with the UNFF (UN Forum on Forests) and the MCPFE (Ministerial Conferences on Protection of Forests in Europe), particularly related to the national forest programmes. They contribute to realisation of an MDG-based national development objective - environmental sustainability. At the same time, the interventions are in line with EU forestry, environmental and rural development objectives.

The main client of the technical support was the Ministry of Agriculture, Forestry and Water Management (MAFWM). The MAFWM is responsible for forestry and hunting administration. The sector is led by an Assistant Minister. It has a small policy/strategic planning unit (2 staff), a newly established Centre for Management Planning and Monitoring (CMPM) (7 staff) and the Forestry Inspection (13 inspectors). The key problem of the sector is that its policy/strategic unit does not have sufficient staff and that responsibilities of the CMMU are not clearly defined. A crucial problem is work overload related to ongoing forest sector reform projects. The main capacity gaps in terms of legislation development in the Ministry of Agriculture, Forestry and Water Management were identified as the lack of forest policy/legislation advisor(s) and internal and external communication. While the potential of the Ministry to make changes in terms of legal issues was assessed as very high, a serious problem was the rigidity of the Government's Legal Office and lawyers. Another constraint was a serious lack of budget for forestry.

The main international partner was Lux-Development - through the FODEMO project. The mission of the FODEMO project - phase II (2007-2011) was to improve the institutional and technical framework conditions for sustainable forest sector development. SNV's activities are complementary to this programme as joint planning and coordination were assured.

## INTERVENTION LOGIC AND METHODS

The technical support included in this case study contained the following goals with activities performed and methods used:

- a) Development of new Forest Law as primary legal framework for sustainable development of forest sector (from 2008 onwards), based on:
  - ✓ proposed a framework contents-concept of the new Forest Law (in 2008);
  - ✓ elaboration of expert proposals of possible legal solutions on a number of key forestry issues;
  - ✓ facilitation the drafting of the Forest Law within appurtenant working group (WG) and facilitation of preliminary stakeholders' discussion on the draft Forest Law solutions (in 2009);
  - ✓ active monitoring of a number of public consultations on the adopted draft Forest Law (in 2010);
  - ✓ providing expert advice and opinions related to certain key solutions within the draft / proposal of Forest Law (in 2010);
  - ✓ providing expert assessments of compliance of the Montenegrin forest and the environmental legislation to the EU *acquis*, including the new draft / proposal of Forest Law (in 2009 and 2010);
  - ✓ elaboration of extensive review and recommendations to the final Forest Law Proposal, including amendments (in 2010);
  - ✓ elaboration of implications of the new EU Due diligence/Illegal harvesting regulation on forest legislation and timber trade (995/2010).
- b) Initial development of criteria and indicators (standards) as ground for new regulatory technical framework for Sustainable Forest management (SFM), based on:

- ✓ presentation of international experiences in Sustainable forest management (SFM) standards and proposed framework concept (based on MCPFE and PEFC) to appurtenant Expert Group (in 2010).
- c) Fulfilment of international MCPFE obligations of Montenegro, through:
- ✓ assuring the fulfilment of two complex MCPFE questionnaires on criteria and indicators for SFM in Montenegro and supporting their submission (by MAFWM) to the UN Economic Commission for Europe (ECE) Geneva (in 2010).
- d) Development of technical bases and provision of capacity building for implementation of the sector reforms, based on:
- ✓ elaboration of a framework for forest planning and management, as well as for an information system (in 2008);
  - ✓ presentation of comparable European experiences in state forestry organisation and functioning models (in 2009);
  - ✓ presentation of foreign experiences in automatic wood tracking systems (use of barcoding) to Montenegrin forest sector and their feasibility (as a result, a decision of the forest sector for (pilot) introducing of that system to Montenegro was made);
  - ✓ participation in knowledge development in the field of forest policy and legislation for sustainable development (in form of presentations at appurtenant IUFRO symposia);
  - ✓ conducting two trainings on contemporary communication methods for forestry professionals (in 2008 and 2009).
- e) Contribution to joint planning, coordination and implementation of the national forest programme (NFP) in Montenegro (from 2008 – middle of 2010), by:
- ✓ clarification of the NFP reform framework concept and sequence;
  - ✓ participating in development and monitoring of a general plan (matrix) of NFP activities in Montenegro and harmonisation of our own work plans with it;
  - ✓ active participation in coordination meetings with MAFWM and FODEMO, particularly those related to Forest Law development;
  - ✓ participation (as partner) in a mid-term evaluation of FODEMO project;
  - ✓ active collaboration in carrying out the First Montenegrin forestry forum, by two presentations and facilitation of a its regulatory framework panel and preparation and signing of a joint Forum statement.
- f) Contribution to forestry public promotion, through:
- ✓ ensuring that 1,000 CDs/DVDs with a film on Forest policy development in Montenegro (previously financed by SNV), were attached to the popular version of the NFP document (financed by FODEMO) and delivered (in 2008);
  - ✓ establishing and maintaining the SNV's part of the Montenegrin National Forestry Program (NFP) website (<http://www.nsp-cg.com/>) (in 2010);
  - ✓ several forestry information releases in newspapers and local TV;
  - ✓ promoting forest conservation through designing and setting a forest promotion billboard (1 x 2 m) in prominent forest locations in Montenegro (in 2010) and delivery of related promotion materials.

## OUTCOME

The technical support described under the intervention logic and methods has contributed to the following outcomes:

- ✓ Established primary forest legislation framework, i.e. new forest law adopted;
- ✓ Developed concept for SFM criteria and indicators (standards) as element of secondary regulatory framework, based on European guidelines;
- ✓ Fulfilled the MCPFE reporting obligations of Montenegro for 2011;
- ✓ Developed contemporary forestry knowledge (on forest legislation development, forestry planning and institutional development and automatic timber tracking);

## IMPACT

- ✓ Jointly planned, coordinated and monitored Montenegrin NFP reform process including international collaboration with IUFRO working party on forest legislation and corresponding knowledge transfer;
- ✓ Raised public awareness on conservation and sustainable development of forests and forestry.

The technical support has, through creation of new enabling forestry legal environment significantly contributed to higher, more qualitative and save forest production, higher employment and higher forest-related income for forest owners as well as for other rural people.

According the Annual report of the MAFWM<sup>2</sup>, the main forest sector result indicators for 2010 are:

- increased forest production compared to 2009 by 36%;
- increased amount of tree seedlings planted (2.110.625);
- increased contribution of the forest sector to GDP (statistical data not yet available).

In terms of other sectoral indicators, which are of a more long-term nature, the situation could be assessed as follows:

- the forest area is increasing due to natural processes;
- the forest growing stock, increment and carbon stock are increasing;
- extent of forest utilization works and number of forest operators are increasing (after a depression in 2009);
- income from forests is increasing (after a decrease in 2009).

Our technical support is certainly contributing to these sectoral indicators.

## LESSONS LEARNED

Taking into account that objectives of the technical assistance were almost fully realised, it could be stated that our approaches worked well. However, it came also to some problems after the first draft Forst Law was adopted. These problems arised from non-participatory approaches and procedures of the MAFWM and from rigidity of the Governmental Legal office. Private forestry stakeholders were fully excluded from preparation, judicial review and adoption of the final Forest Law proposal. Some previous consensual solutions have also been removed unilaterally by the Government. This led to serious dissatisfaction of private forest sector's stakeholders, as well as to our own dissatisfaction.

The following other lessons have been learned:

- ✓ New forest policy and legislation trends, particularly the European and EU ones, are very appreciated and easily accepted in Montenegro, although some are accepted but not practiced;
- ✓ There is a limited number of capable professionals available and different activities are often targeting the same people. Because of this there is also problem of harmonization of priorities and their implementation dynamics between the beneficiaries and donors' institutions;
- ✓ Personal interests in the national forestry decision making are often more crucial than general/national interests;
- ✓ Stakeholders' involvement, public participation and open communication, is still at a very low level in the Montenegrin forest sector.

Critical success factors which made the impact possible could be summarized as follows:

- ✓ the forest sector in Montenegro was/is under reform. Therefore it is more receptive for change;
- ✓ the management of the sector was/is generally open to the introduction of international forestry policy recommendations, good practices and particularly the EU harmonization requirements.

## SUSTAINABILITY

In general, sustainability of outcomes and impact in the Montenegrin conditions is difficult to achieve as there is lack of human and financial

<sup>2</sup> Available at <http://www.minpolj.gov.me/vijesti/101959/Izvjestaj-o-realizaciji-medunarodnih-projekata-u-sumarstvu-za-2010-godinu.html>.

capacities, enthusiasm, self-motivation, innovativeness, good leadership, stimulation and consequently preparedness of people to work and produce new values.

The final impact of this interventions depends on the (level and quality of) implementation of the new forest law which is mainly of medium or long-term nature.

The main opportunity in terms of partnership is continuation of the cooperation with the Lux-Development which has taken over the management of a new EU IPA Forestry capacity building project. One of the IPA project components -designated to development of regulatory technical framework - is offering opportunity for resource mobilisation in this field, mainly through competing at its tenders.

#### **QUOTES:**

##### **Dr. Milosav Andjelic, Assistant Minister:**

*"SNV's contribution to new draft forest law development is immeasurable".*

##### **Mr. Dragan Marinovic, Advisor to the Minister**

*"Without the SNV's extensive assistance, Montenegro could not fulfil the demanding international reporting obligations on criteria and indicators for sustainable forest management".*

#### **Standard data:**

##### Start and end date of the contracts:

- September 2008 – January 2011;

##### Composition of the team:

- Franc Ferlin, Mensura Nuhodzic and Aleksandra Redzic (SNV staff);
- 8 LCBs; and
- 2 international consultants;

##### Number of PP-days invested per category:

- 300 days of SNV advisors;
- 120 days of LCBs; and
- 45 of external consultants.

##### Relevant partnerships:

- non-formal partnership with Lux-Development FODEMO project

##### The financial resources invested (programme costs only):

- €32.000;

##### Clients satisfaction and enhanced capacity scores:

- Output – 3.70;
- Outcome 3.50.