

Timber Legality Risk Assessment Romania

Version 1.3 | November 2017



COUNTRY RISK
ASSESSMENTS



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This risk assessment was prepared by NEPCon between 2015 and 2017 as follows:

Draft prepared by NEPCon:	19. November 2016
Stakeholder consultation	February – March 2017
Final approval by FSC:	20. September 2017
FSC CW effective date:	21. March 2018

B. Overview of Legality risks

Timber Risk Score: 39 / 100 in 2017

This report contains an evaluation of the risk of illegality in Romania for five categories and 21 sub-categories of law. We found:

- Specified risk for 11 sub-categories.
- Low risk for 7 sub-categories.
- No legal requirements for 3 sub-categories.

The Timber Risk Score for Romania is 50 out of 100. The key legality risks identified in this report concern legal rights to harvest, taxes and fees, timber harvesting activities and trade and transport.

For **legal right to harvest**, there is a risk of:

- Risk of the Civil Code being broken when private land is passed on through inheritance. In particular, there's a risk that an inheritance certificate or other legal documents certifying the right to the property are not provided (1.1).
- Harvest volumes exceeding those that are recorded in legal documents (1.4)
- Harvesting without the relevant permit, including harvested in areas outside of those for which permits do exist (1.4)
- Harvesting permits being issued for areas outside the boundaries of the relevant property (1.4)
- Harvesting permits for "accidental cuts" being illegally issued to mask illegal logging (1.4)

For **taxes and fees**, there is risk of:

- Non-payment of private toll roads (1.5)

For **Timber Harvesting Activities**, there is risk of:

- Risk of harvest certificates being issued without verification that harvesting contractors possess the prescribed equipment, machinery and adequately trained staff as required by regulations (1.8)
- Harvesting from high conservation value forest areas due to either a lack of/poor quality management plan for such areas and/or insufficient integration of conservation management plans with forest management plans (1.9)
- Breaches of environmental requirements (1.10), including but not limited to:
 - Harvesting without the required environmental approval/permit being in place
 - Violation of the environmental legislations stipulated as condition of an environmental authorisation
 - Environmental authorisations issued post-harvesting
 - Environmental authorisations issued without consultation of the relevant conservation authorities

- Inadequate implementation and oversight of Health and Safety regulations (1.11)
- Harvesting staff being employed without a formal employment contract and its associated safeguards pertaining to minimum salary, minimum age and required competences (1.12).

For **Trade and Transport**, there is a risk of:

- Inaccurate classification of timber origin or under estimation of volume in the field (1.16)
- Incorrect information on the origin and volume of timber being transmitted along the supply chain due to lack of verification between Volume Estimation Documents (VED) and actual harvesting results (1.17).
- Transport of timber with delivery documents that do not indicate the true information due to inherent weaknesses and lack of compliance monitoring with the WOOD tracking system (1.18).
- Risk of contravention of legislation requiring the due diligence/duty of care procedures considering its only recent adoption by the Romanian government (1.20).

Timber source types and risks

There are four timber source types found in Romania. Knowing the “source type” that timber originates from is useful because different source types can be subject to different applicable legislation and have attributes that affect the risk of non-compliance with the legislation. We have analysed the risks for all source types and found the risks do not differ between the source types.

Timber from natural production forests	Both publicly and privately owned. A harvesting certificate, harvesting permit, Volume Estimation Document (APV), environmental permit, approval from the National Park Administration (if applicable) and approval from the Natura 2000 site Custodian (if applicable) are required.
Timber from plantations	Privately owned and managed. A Harvesting permit and Volume Estimation Document (APV) is required.
Timber from forest farmlands	Private and publicly owned farmland where forests have regenerated with a canopy cover of less than 0.4 per cent. A Volume estimation document (APV) is required.
Timber from conservation forests	Limited source - harvesting restricted to a maximum of 10% of volume per decade. Both publicly and privately owned. A harvesting certificate, harvesting permit, Volume Estimation Document (APV), environmental permit, approval from the National Park Administration (if applicable) and approval from the Natura 2000 site Custodian (if applicable) are required.

This matrix summarises the findings of the timber legality risk assessment set out in this report.

Legal Category	Sub-Category	Risk conclusion
Legal rights to harvest	1.1 Land tenure and management rights	Specified
	1.2 Concession licenses	Low
	1.3 Management and harvesting planning	Low
	1.4 Harvesting permits	Specified
Taxes and fees	1.5 Payment of royalties and harvesting fees	Specified
	1.6 Value added taxes and other sales taxes	Low
	1.7 Income and profit taxes	Low
Timber harvesting activities	1.8 Timber harvesting regulations	Specified
	1.9 Protected sites and species	Specified
	1.10 Environmental requirements	Specified
	1.11 Health and safety	Specified
	1.12 Legal employment	Specified
Third parties' rights	1.13 Customary rights	N/A
	1.14 Free prior and informed consent	N/A
	1.15 Indigenous/traditional peoples rights	N/A
Trade and transport	1.16 Classification of species, quantities, qualities	Specified
	1.17 Trade and transport	Specified
	1.18 Offshore trading and transfer pricing	Low
	1.19 Custom regulations	Low
	1.20 CITES	Low
	1.21 Legislation requiring due diligence/due care procedures	Specified

C. Overview of the forest sector in Romania

The Romanian forest sector is characterised by a diverse ownership structure:

Table 1. Ownership structure, 2012 according to Romanian Court of Accounts, 2013, A synthesis of the report Patrimonial Situation of the Romanian Forest Fund (all forests, lands for afforestation, those serving crop needs, forestry production or administration, ponds, streams, as well as non-productive land included in forest management plans) between 1990 and 2012 (p. 81) <http://www.curteadeconturi.ro/Publicatii/economie7.pdf>

Ownership		Area (ha)	%
Public property	State	3.254.000	50
	Administrative-territorial units	1.029.000	15
Private property		2.236.000	35
TOTAL		6.519.000	100

The legal system of forest management does not differentiate between the different forms of ownership. The Romanian silviculture management system is based on the French forest regime, that is the set of "technical forest, economic and juridical norms about Forest Management Planning, culture, harvesting, protection and guarding of the forest fund, with the final objective being to ensure the sustainable management of forest ecosystems" (Forest Code, 2008).

In order to implement the forest regime in all forests, irrespective of the ownership group, the two main instruments of the compulsory and unitary forest administration are – Forest districts (FD) (based on territorial units), which are organised on the same basis in private or in public forest, and Forest Management Plans (FMP).

Forest Management Plans, developed by contractors authorised by governmental commission and approved by Ministerial Order are a prerequisite of legal timber harvests. As stated in the Forest Code of 2008, a forest owner (with less than 10 ha) who has no FMP cannot harvest more than 3 cubic metres per hectare per year. If forest owners have a Forest Management Plan (FMP) in force, they can harvest according to the annual plan of cuttings. For this, a forest official – the forest manager of the Forest district in question – will first do the timber inventory and the timber marking in the field, then the volumes to be harvested are recorded in the volume estimation document (VED); these volumes constitute the basis for selling (OM 1540/2011). The timber can be sold either as standing stock (stumpage) or as harvested timber in the primary platform.

Before harvesting, the contractor/owner must obtain a harvesting permit from the Forest district and the tracts will be checked for discrepancies with the permit – missing timber or other forest- and timber-related damage – before, during and after harvesting. The timber cut can only be transported out of the forest with a document of origin (called a delivery note), after the volumes cut are recorded in the electronic timber tracking system (SUMAL).

The truck may leave the forest only after obtaining a unique code generated by the wood tracking system (HG 470/2014).

Timber harvesting is monitored in the forest by the forest manager (from the FD in question) who is supposed to check the harvesting process at intervals of no more than 60 days (OM 1540/2011). Secondly, harvesting, but especially timber transportation is controlled by the Forest Guard (before 2015 the Forest Inspectorate) and the police (local and traffic police – both of which have the authority to stop trucks, ask for their unique codes and check that the quantity transported corresponds to the quantity recorded in the wood tracking system).

In 2015, Romania had a Corruption Perception Index (CPI) score of 46 (below the threshold of 50) and, according to the World Bank Worldwide Governance Indicators (on a scale of -2.5 [worst] to 2.5 [best] in 2014) received a score of 0 for Government Effectiveness, 0.15 on Rule of Law, and -0.14 on Control of Corruption, indicating that the country has a lower-middle score on governance and high levels of corruption. Thus Romania can be considered to be at the lower-middle level on governance and, law implementation, and middle-high level of corruption indicators.

Summary of legislation applicable to timber harvesting:

- Forest Code (law 46/2008 modified, republished 2015);
- Ministerial Order 1540/2011 on Harvesting rules;
- Governmental Decision 470/2014 on Timber transporting and trade rule, and application of EUTR 995/2010.

Additional sources

- FAO. 2015. Global Forest Resources Assessment 2015 – Country Report – Romania. <http://www.fao.org/3/a-az315e.pdf>
- EIA (Environmental Investigation Agency). 2015. Stealing the last forest: Austria's largest timber company, land rights, and corruption in Romania. https://s3.amazonaws.com/environmental-investigation-agency/assets/2015/10/Stealing_the_Last_Forest/EIA_2015_Report_Stealing_the_Last_Forest.pdf

D. Legality Risk Assessment

LEGAL RIGHTS TO HARVEST

1.1. Land tenure and management rights

Legislation covering land tenure rights, including customary rights as well as management rights that includes the use of legal methods to obtain tenure rights and management rights. It also covers legal business registration and tax registration, including relevant legal required licenses. Risk may be encountered where land rights have not been issued according to prevailing regulations and where corruption has been involved in the process of issuing land tenure and management rights. The intent of this indicator is to ensure that any land tenure and management rights have been issued according to the legislation.

1.1.1. Applicable laws and regulations

- Land Resources Law 18/1991 – Articles 2, 45,46,47,48,95. Available at: <http://legislatie.just.ro/Public/DetaliiDocument/1459>
- <http://lege5.ro/Gratuit/gmzdgqzuce/law-on-the-land-resources-no-18-1991->
- Law 1/2000 on reconstitution of the property right over agricultural and forest land claimed in keeping with the provisions of Land Law 18/1991 and 169/1997, Article 24,25,26,27,28,9,30,31. Available at: <http://legislatie.just.ro/Public/DetaliiDocument/20557>
- <http://lege5.ro/Gratuit/gmzdgqzucgm/law-no-1-2000-on-reconstitution-of-the-property-right-over-agricultural-and-forest-land-claimed-in-keeping-with-the-provisions-of-law-on-land-resources-no-18-1991-and-law-no-169-1997>
- Law 247/2005 on the reform of property and justice, and other measures [*Legea nr. 247/2005 privind reforma în domeniile proprietății și justiției, precum și unele măsuri adiacente*], Titles IV, V, VI. Available at: <http://legislatie.just.ro/Public/DetaliiDocument/63447>
- Law 107/1996, articles 30,31. Available at: <http://www.cdep.ro/legislatie/eng/vol28eng.pdf>
- Ministerial order No. 904/2010 regarding the approval of the Procedure to constitute and authorise the Forest districts and their attributes, models for constitution documents, organisation and functioning, as well as the content of the National Registry of Forest Administrators and Forest districts [*ORDIN Nr. 904 din 10 iunie 2010 pentru aprobarea Procedurii privind constituirea și autorizarea ocoalelor silvice și atribuțiile acestora, modelul documentelor de constituire, organizare și funcționare, precum și conținutul Registrului național al administratorilor de păduri și al ocoalelor silvice*]. Available at: <http://legislatie.just.ro/Public/DetaliiDocumentAfis/140035>
- Decision 1076/2006 Rules for the security of the forest fund: Available at: <http://legislatie.just.ro/Public/DetaliiDocumentAfis/112636>

1.1.2. Legal authority

- Local councils and property restitution commissions
- Ministry of Environment, Water and Forests
- National Forest Guard

1.1.3. Legally required documents or records

- Property titles for private owners and associative forms
- Forest Management Plans for state forests

1.1.4. Sources of information

Government sources

- Romanian Courts of Accounts (2013). *"The patrimonial situation of the forest resources in Romania, in the period 1990-2012"*. [online] Audit report. Available at: <http://www.curteadeconturi.ro/Publicatii/economie7.pdf>
- Romanian Court of Accounts (2014). *Raport de audit al performanței modului de administrare a fondului forestier național în perioada 2010 – 2013*. [online]. Audit report of the performance of the administration of the forest fund between 2010 and 2013. Available at: http://www.curteadeconturi.ro/Publicatii/Sinteza_FF.pdf

Non-Government sources

- Bouriaud, L., Marzano, M. (2014). Conservation, extraction and corruption: Is sustainable forest management possible in Romania? In: *Natural Resource Extraction and Indigenous Livelihoods, Development challenges in Era of Globalisation*. Gilberthrope E., Hilson G. (ed.), Ashgate. pp. 221-240

1.1.5. Risk determination

Overview of legal requirements

Land tenure

Following the collapse of communism in 1991, Romania has undergone a lengthy process of property rights restoration. The land ownership restoration process started with the first restitution law, 18/1991 (Land Resources Law), enacted one year after the fall of the communist regime.

Regarding forest areas, the law stipulates the restoration of areas up to one hectare per family. In the interest of reducing ownership fragmentation, it was decided not to restore areas according to the old forest property boundaries, but to group them at the edges of forest massifs.

The next laws dealing with land restitution (107/1996, 1/2000) allowed former owners to claim areas occupied by forests up to a limit of 10 hectares (for private owners) and 30 hectares for associative farms, public institutions or religious entities.

The principle of "restitutio in integrum" (restitution in full) was stated in Law 247/2005, 15 years into the transition period. At that point, 362,335 ha had been restored according to Law 18/1991 (5.7 % of the forest fund to that date) and 1,902,275 ha (29.9% of the forest fund) according to Law 1/2000 (Nichiforel 2005). In 2012, the distribution of

property types in the forestry sector of Romania was 6.4 million ha (Report of the Romanian Court of Accounts, 2013), divided as follows:

- Public state-owned forest – 3,227,907 hectares, for which the property title is for forest management land (50%)
- Public administrative-territorial units – 1.111.000 hectares (17%)
- Individual private owners – 1.213.000 hectares (18%)
- Associative forms – 736.000 hectares (10%)
- Validated claims and not restored – 182.000 (5%)

To date (2016), the restitution process is not finished; there are still unresolved claims to forest and agricultural lands.

Management rights:

According to the Forest Code (Law 46/2008, art 10), the administration of forest areas or provision of forest services (especially guarding against illegal harvesting and timber theft) is mandatory, regardless of the type of ownership. Only authorised Forest districts can be administered. The authorisation of Forest districts is done by the Central Authority Responsible for Silviculture (Ministry of Environment, Water and Forests) and its regional representatives (Forest Guard Offices), in accordance with Ministerial Order No. 1330/2015.

The Forest district has to register each contract for administration or for services provided (services of guarding, drafting of Volume Estimation Documents, delivery documents etc.) at the local office of the Forest Guard.

Description of risk

Land tenure:

In 2013, the Romanian Court of Accounts issued a report based on the audit of the forestry sector, stating the main concerns regarding the development of the sector after the fall of communism. The report provides a detailed overview of the restitution process, describing it as confused, hesitating and lacking vision. The repeated laws dealing with forest restitution have prolonged the restitution process, and any misinterpretations have been exploited by persons issuing illegal claims to forest areas. The report estimates that, in different stages of ownership restoration (claimed, validated, fully restored), approximately 561,168 ha of forest land have been the object of illegal restitution on the basis of unlawful claims and illegal actions, including:

- Claimed areas being larger than the original property;
- Claims being made on areas that were not the object of communist nationalisation, but which were the object of laws enacted prior to that (for instance, the Law of Secularisation of Monastery Property of 1863, and Law 187/1945 regarding the compensation of war veterans with agricultural and forest lands);
- Claims being made for forests that were taken by the state in lieu of debts;

- Claims being made in the names of foreign firms that were not the object of the restitution laws;
- Cases in which not all the heirs of the initial associative members were found and the claim was made for the entire area;
- Situations where the claim was made by persons without heritage, by unlawful representatives of the associative forms or religious entities that only had rights of usage and not ownership;
- Claims made according to fabricated documents, or old documents that were either vague or not updated to reflect conditions in 1948;
- Cases in court in which the National Forest Administration (RNP – Romsilva) was considered to lack the processual quality (since it is the only administrator of state forests) and the cases were settled in the favour of the people claiming property restoration, since the rightful representative of the state (the Ministry of Public Finances) was not present in the court.

Most of the cases presented in the report were documented in the media and scientific journals described in the list of Sources of Information.

Since the release of the report by the Romanian Court of Accounts (2013), other cases of disputes over land tenure and illegal forest restitution have been discovered and dealt with in the Court of Law:

- Large areas over which illegal restitution was made by the Court of Law and the National Forest Administration under the influence of political support; this support was supposed to be rewarded with parts of the property in question;
- Illegal procurement of land and unlawful selling contracts.

All the factors described above contribute causally to the large areas of forest lands with disputed ownership, usually classified as “M” sub-compartments in the forest management plan and exempted from any management activities. Legislation prohibits any management whatsoever of areas that are subject to legal disputes. The forest management plan includes a chapter regarding ownership titles and areas identified as disputed. Also, the private owners are obligated to contract management services with the forest district and to register the contracts with the Forest Guard territorial office. Thus, in cases of valid management plans or registered contracts, the risk of illegal land tenure is considered low. Usually a forest entity will have the required forest management plan in place. See 1.3.

Concerning the private individual owners: due to the fact that the restitution process lasts for more than two decades (areas up to 10 ha can be claimed), many of the owners included in the property titles are dead and descendants did not follow the legal formalities for succession yet. A risk is identified regarding the succession forms only for private individuals that had not made the succession procedure, to obtain the inheritance certificate (i.e. the successors have the right for inheritance, but is not the legal owner until the inheritance certificate is obtained) or another legal document certifying the right to property. In practice, some forest administrations are satisfied with the presentation of an affidavit from one successors (in cases of multiple ones), requesting the forest administration /services assuming at the same time full responsibility in the name of legal

heirs. Thus, a certain successor may benefit from the wood products, in possible detriment of others potential legal successors of the same inheritance. This fact may lead to Civil Code violation.

Risk Conclusion

Identified laws are not upheld consistently by all entities and/or are often ignored, and/or not enforced by relevant authorities.

1.1.6. Risk designation and specification

Low risk for State, publicly owned forests and forests owned by private individuals (more than 10 ha/owner).

Specified risk for Forests owned by private individuals (areas less than 10 ha/owner).

1.1.7. Control measures and verifiers

- Access to information / requirement of additional documents which proves the legal property rights (e.g. the inheritance certificate, property title, sale contract etc);
- Maps on shared surfaces;

1.2. Concession licenses

Legislation regulating procedures for the issuing of forest concession licenses, including use of legal methods to obtain concession license. Especially bribery, corruption and nepotism are well-known issues in connection with concession licenses. The intent of this indicator is to avoid risk related to situations where organizations are obtaining concession licenses via illegal means such as bribery, or where organizations or entities that are not eligible to hold such rights do so via illegal means. Risk in this indicator relates to situations where due process has not been followed and the concession rights can therefore be considered to be illegally issued. The level of corruption in the country or sub-national region is considered to play an important role and corruption indicators (e.g., Corruption Perception Index, CPI) should therefore be considered when evaluating risks.

1.2.1. Applicable laws and regulations

- Law 46/2008, republished in 2015 Forestry code (Art. 11, line 3). Available at: <http://legislatie.just.ro/Public/DetaliiDocument/170527>
- Order of the Ministry for Environment and Forests no. 367/17.03.2010 for the approval of the concession value, of the calculation and payment methods for the royalty obtained from the concession of the forest lands which are part of the public property of the State related to the actives sold by the National Forest Administration, Romsilva, as well as of the template of the concession agreement, published in the Official Journal, Part I, no. 196/29.03.2010, with subsequent amendments. Available at: <http://legislatie.just.ro/Public/DetaliiDocument/117505>

1.2.2. Legal authority

- Ministry of Environment, Water and Forest
- Forest Guard

1.2.3. Legally required documents or records

- Property title
- Concession agreement

1.2.4. Sources of information

Government sources

N/A

Non-Government sources

N/A

1.2.5. Risk determination

Overview of Legal Requirements

The Forest Code of 2008, modified in 2015, states that publicly owned forest areas cannot be subject to concession, with the exception of administrative land that is currently under buildings that were sold by the National Forest Administration or was occupied by constructions built before 1990.

Description of risk

No publicly owned land covered by forest vegetation can be subject to concession: concession of forest resources is not a practice in Romania.

Risk conclusion

This indicator has been evaluated as low risk. Identified laws are upheld. Cases where law/regulations are violated are efficiently followed up via preventive actions taken by the authorities and/or by the relevant entities.

1.2.6. Risk designation and specification

Low risk

1.2.7. Control measures and verifiers

N/A

1.3. Management and harvesting planning

Any legal requirements for management planning, including conducting forest inventories, having a forest management plan and related planning and monitoring, as well as approval of these by competent authorities. Cases where required management planning documents are not in place or are not approved by competent authorities should be considered. Low quality of the management plan resulting in illegal activities may be a risk factor for this indicator as well.

1.3.1. Applicable laws and regulations

- Law 46/2008 regarding the approval of the Forestry Code title III. Available at: <http://legislatie.just.ro/Public/DetaliiDocument/90768>

- Ministerial order no. 460/2010 regarding the approval of the Methodology for certification of specialised units to establish Forest Management Plans [ORDIN nr. 460 din 1 aprilie 2010 pentru aprobarea Metodologiei de atestare a unităților specializate să elaboreze amenajamente silvice]. Available at: <http://legislatie.just.ro/Public/DetaliiDocument/118103>
- Ministerial order no. 1039/2010 for approval of the Methodology for certification of experts that technically guarantee the quality of Forest Management Planning and the Methodology to certify project responsables for the Forest Management Planning activities [ORDIN nr. 1.039 din 1 iulie 2010 pentru aprobarea Metodologiei de atestare a experților care certifică, din punct de vedere tehnic, calitatea lucrărilor de amenajare a pădurilor și a Metodologiei de atestare ca șefi de proiect pentru lucrări de amenajare a pădurilor]. Available at: <http://legislatie.just.ro/Public/DetaliiDocument/120652>
- Technical regulation no. 5/2005 regarding the design of Forest Management Plans
- Ministerial order no. 1651/2000 regarding the approval of the Technical regulations for evaluating the volume of wood for selling [O.M. nr. 1651/2000 – privind aprobarea Normelor tehnice privind evaluarea volumului de lemn destinat comercializării]. Available at: http://ocoalederegim.ro/norme_tehnice.html
- Ministerial order no. 3397/2012 criteria and indicators for identification of virgin forests in Romania. Available at: <http://legislatie.just.ro/Public/DetaliiDocument/141475>

1.3.2. Legal authority

- Ministry of Environment, Water and Forests
- Forest Guard

1.3.3. Legally required documents or records

- Management Plan – for areas larger than 10 hectares
- Harvest plan – for areas larger than 10 hectares

1.3.4. Sources of information

Government sources

N/A

Non-Government sources

- HotNews (2013). *Mic ghid al furtului de lemn: Cum se mascheaza taierile ilegale din paduri*. [Online]. Available at: <http://www.hotnews.ro/stiri-mediu-16048006-mic-ghid-furtului-lemn-cum-mascheaza-taierile-ilegale-din-paduri.htm>. [Accessed on 14 November 2016].

1.3.5. Risk determination

Overview of Legal Requirements

The Forest Code as modified in 2015 states that a Forest Management Plan is mandatory for areas of forest larger than 10 hectares (article 20, line 2). In such cases, owners are

entitled to harvest no more than 3 cubic metres/ha/year, taking into account the structure of the stand, without a harvest planning order to make regeneration cuts, but a Management Plan has to be drafted. In areas smaller than 100 hectares per owner per administrative unit, the continuity of the harvesting process is organised at stand level, using low intensity silvicultural system or single tree selection system.

The validity of a Forest Management Plan is usually 10 years (for high forest) and 5 years for coppices with high growth rates. Forest Management Plans are developed by firms authorised by Governmental commission and approved by a representative of the Central Authority for Silviculture (Ministry of Environment, Water and Forests) and by environmental protection agencies. Each forest management plan is subject for public consultation organized by the Environmental agency in order to obtain the environmental permit.

Forest Management Plans are based on a stand-level inventory of forest resources within the Forest Management Unit (FMU) in question, verified by representatives of the Forest guard.

The cost of Forest Management Plan development for areas less than 10 hectares is to be paid by the state from a special fund for improvement of forest lands (Forest Code, art 21, line 4).

The annual cut allowance is computed using several methods that take into account the annual growth and yield rates, modelled according to a national yield table (Giurgiu, 2001).

Each Forest Management Plan contains wood harvest plans for regeneration cuts (within the decennial and annual allowable cut) as well as a plan for forest tending operations (pre-commercial and commercial thinning, sanitary cuts). In the case of the wood harvest plans, a detailed table is provided, including areas, volumes, and types of silvicultural systems). In the case of thinning, only areas to be affected are referred to, as the volume will be computed after the marking of trees, according to the stand structure at the time the operation is done. The tending operations established in the harvest plan are the minimum compulsory interventions to be done by the Forest Management Entity (FME). Wood affected by pests, wind thrown or snow damage is removed from the forest through sanitary cuts (less than 1m³/ha) or accidental cuts (cuts that exceed 1m³/ha). Accidental cuts are divided into two types, depending on whether the harvesting occurs in stands of more or less than half the harvesting age (usually 60 years). The main difference between the two types is that type I accidental volumes (age greater than half the harvesting age) is deducted from the annual allowable regeneration cut, while type II accidental cuts are not deducted from the allowable regeneration cut. The accidental cuts marked for extraction in private forests can be subject to control by the Forest Guard within 5 days of the Guard being notified.

Description of Risk

The Forest Management Plan is usually paid from the resources of the forest owner, which can be a burden for owners of small areas. In such cases, reducing the quality of the harvesting work could be used as a way to reduce costs. The forest harvesting plans can be evaded by overestimating the impact of biotic and abiotic factors and marking healthy trees as a way to harvest wood from forests that are not subject to thinning or regeneration harvests. The stand-level inventory of forest resources within the Forest

Management Unit (FMU) could be underestimated. However, there are no source of information indicating the potential risks as relevant at national level. This has been corroborated by expert review and consultation.

Risk Conclusion

This indicator has been evaluated as low risk. Identified laws are upheld. Cases where law/regulations are violated are efficiently followed up via preventive actions taken by the authorities and/or by the relevant entities.

1.3.6. Risk designation and specification

Low risk

1.3.7. Control measures and verifiers

N/A

1.4. Harvesting permits

Legislation regulating the issuing of harvesting permits, licenses or other legal document required for specific harvesting operations. It includes the use of legal methods to obtain the permit. Corruption is a well-known issue in connection with the issuing of harvesting permits. Risk relates to situations where required harvesting is carried out without valid permits or where these are obtained via illegal means such as bribery. In some areas, bribery may be commonly used to obtain harvesting permits for areas and species that cannot be harvested legally (e.g., protected areas, areas that do not fulfil requirements of minimum age or diameter, tree species that cannot be harvested, etc.). In cases where harvesting permits classify species and qualities to estimate fees, corruption and bribery can be used to classify products that will result in a lower fee. The level of corruption in a country or sub-national region is considered to play an important role and corruption indicators should therefore be considered when evaluating risks. In cases of illegal logging, harvesting permits from sites other than the actual harvesting site may be provided as a false proof of legality with the harvested material.

1.4.1. Applicable laws and regulations

- Ministerial Order 837/2014 regarding the approval of the Methodology for the organization and functioning of SUMAL, the obligations of SUMAL users as well as the structure and transmission of standardized information [Ordinul nr. 837/2014 pentru aprobarea Metodologiei privind organizarea și funcționarea SUMAL, obligațiile utilizatorilor SUMAL, precum și structura și modalitatea de transmitere a informațiilor standardizate]. Available at: <http://legislatie.just.ro/Public/DetaliiDocument/162297>
- Ministerial Order 596/2014 test methodology regarding the implementation of integrated information system for tracking wood materials. Available at: <http://legislatie.just.ro/Public/DetaliiDocument/159489>
- Ministerial Order 1507/2016 regarding the approval of the Procedure for approving, modifying, annulment and expiration of the Volume Estimation Documents for timber originating from the national forest fund and the forest vegetation on lands outside the national forest fund [Ordinul nr. 1507/2016 privind aprobarea Procedurii de aprobare, modificare, anulare și casare a actelor de punere în valoare pentru masa lemnoasă provenită din fondul forestier național și din vegetația forestieră situată pe

terenuri din afara fondului forestier national]. Available at:

<http://legislatie.just.ro/Public/DetaliiDocument/181215>

- Ministerial Order 1540/2011 regarding the approval of harvesting instructions, dates and technologies. Available at: <http://legislatie.just.ro/Public/DetaliiDocument/129446>
- Order no. 1798/2010 Procedure for issuance of the environmental permit (Art. 19). Available at: <http://legislatie.just.ro/Public/DetaliiDocumentAfis/143346>
- Ministerial Order No. 1330/2015 regarding the organisation, functioning and competence of the Commission for certification of forest harvesting contractors, as well as the criteria for certification [ORDIN nr. 1.330 din 1 septembrie 2015 pentru aprobarea Regulamentului privind organizarea, funcționarea și componența Comisiei de atestare a operatorilor economici pentru activitatea de exploatare forestieră, precum și criteriile de atestare pentru activitatea de exploatare forestieră]. Available at: <http://legislatie.just.ro/Public/DetaliiDocument/171315>
- Ministerial order no. 460/2010 regarding the approval of the Methodology for the certification of the units specialized in the establishment of the Forest Management Plans <http://legislatie.just.ro/Public/DetaliiDocument/118103>
- Ministerial order no. 1039/2010 for the approval of the Methodology for the certification of the experts who certify in technical terms, the quality of the Forest Management Planning and the approval of the Methodology for the certification of the project managers for Forest Management Planning activities <http://legislatie.just.ro/Public/DetaliiDocument/120652>

1.4.2. Legal authority

- Ministry of Environment, Water and Forests
- Forest guard
- Commission for Certification of Forest Harvesting Contractors (ASFOR)

1.4.3. Legally required documents or records

- Harvesting certificate (Issued for a total quantity of wood for harvesting based on specific criteria (no. of forest engineers, no. of tractors, etc) (ex. 15000 mc)
- Harvesting permit (Standing stock)

1.4.4. Sources of information

Government sources

- mmediu.ro (2015). *The map of the potential risk areas for illegal logging*. [online]. Ministry of Environment, Water and Forests. Available at: <http://www.mmediu.ro/categorie/paduri/25>
- lege5.ro (2015). *Emergency Ordinance 32, regarding the establishment of the Forest Guards*. [online]. Available at: <http://lege5.ro/App/Document/g4ytmojrgi/ordonanta-de-urgenta-nr-32-2015-privind-infiintarea-garzilor-forestiere>

- Romanian Court of Accounts (2014). An audit report on the performance of national forest found administration during 2010-2013. [online]. Available at: http://www.curteadeconturi.ro/Publicatii/Sinteza_FF.pdf

Non-Government sources

- Greenpeace Romania (2015). *Illegal cuts in Romanian forests*. [online]. Available at: <http://www.greenpeace.org/romania/Global/romania/paduri/Publicatii/Raport%20taieri%20ilegale%202015.pdf>. [Accessed 14 November 2016].
- Greenpeace Romania (2016). *Tăierile Ilegale Din Pădurile României În 2016* <http://www.greenpeace.org/romania/Global/romania/paduri/raport-taieri-ilegale-2016.pdf>
- The Center for Sustainable Policies Ecopolis (2012). A study on the means of prevention and mitigation of illegal cuts in Romania [*Analiza mecanismelor de prevenire si combatere a ilegalitatilor silvice din Romania*]. [online]. Available at: <http://www.ecopolis.org.ro/media/Studiu%20ilegalitati%20silvice.pdf>. [Accessed 14 November 2016].
- Bouriaud L., Marzano M. (2014). *Conservation, extraction and corruption: Is sustainable forest management possible in Romania?* In: Gilberthroe E., Hilson G. (ed.), *Natural Resource Extraction and Indigenous Livelihoods, Development Challenges in Era of Globalisation*. Ashgate, pp. 221-240
- Ministry of Environment and Climate Change, Department for Water, Forests and Fishery (2014). *Biometrics methods for evaluating the volume of wood*. Nr. 90171/04.11.2014. [online]. Available at: <http://apepaduri.gov.ro/wp-content/uploads/2014/09/Metode-dend.-12.11.2014-draft-M.GH..pdf>. [Accessed on 14 November 2016].

1.4.5. Risk determination

Overview of Legal Requirements

Forest harvesting permits are issued by the Forest management enterprise based on the inventory of the trees to be harvested and an estimation of the volume within the Volume Estimation Document (VED). Any wood harvest from forests or forest vegetation areas (forested pastures, trees outside forests etc.), regardless of ownership, is subject to individual inventory of trees to be harvested and the drafting of the VED by authorised forest management firms (state or private Forest districts).

The classification of species, quantities and qualities is done along with the drafting of inventory papers (VED). Each tree that is marked for cutting (with a circular mark on the trunk) and the diameter at chest height, the species and quality class (I-IV) are recorded. The threshold for diameter measurements is 6 cm. The height is modelled using a regression equation, defined on the basis of a 20-30 tree sample. The measurements are introduced in the SUMAL application and the Harvesting Permit Volume Estimation Document (APV) is drafted. The application computes the overall volume and the volume per type (industrial wood, fuel wood, types of logs etc.). In pre-commercial thinning, the harvested wood is measured in stere (Unit of volume equal to one cubic meter) and converted into cubic metres using conversion factors. Estimates of volume from diameter and modelled height are based on regression equations with coefficients determined at a

national level (Giurgiu, 2004). Each VED is verified by the forest fund representative at the forest district, approved by the forest district chief and posted on the site of the Forest Guard. The Ministerial Order 1507/2016 states that the Forest Guard will verify at least 20% of the VEDs registered on its website.

The volume estimated through the APV is considered to be the threshold for the actual harvested volume, measured as logs and recorded in the delivery documents.

The volume given in the Volume Estimation Document (VED) is the basis of the auction process for publicly owned forest, or other types of selling for privately owned forest. The volume is calculated in SUMAL (Integrated Information System for Timber Tracking) and is controlled throughout the chain of custody using the Wood Tracking System, which is the contractor component of SUMAL.

The harvesting of wood from publicly owned forests (state or municipality) is contracted by auction, either as standing stock or as harvesting services. An exception: wood for local communities' needs can be sold without auction using favourable prices set by the National Forest Administration or municipal councils.

Contractors are allowed to take part in the auction after a previous attestation process done by a commission of the Romanian Foresters Association (ASFOR) (see also 1.1). The attestation is issued for a maximum volume of wood to be harvested over a period of time, according to the personnel and the machinery available to the firm. The contractor can participate in auctions that have listed less or equal the volume of wood it is authorised for.

In private forests, the owners can choose the method by which to sell their wood, either by auction or by negotiation. Individual private forest owners are also allowed to harvest up to 20m³ with his or her own equipment. The harvested wood is also subject to harvesting permit and delivery document issued by the nearest Forest district office.

After the adjudication and the harvest permit is issued by the Forest district chief, the firm (both private and state forests) must apply for authorisation from the Environmental Protection Agency. The APV contains the total volume to be harvested, on species and assortments and the harvesting technics to be applied, in concordance with the silviculture system used. The estimated volume cannot be exceeded during the harvest – the contractor is not permitted to issue delivery documents for more than the volume given in the Volume Estimation Document (VED).

The timber harvesting contractors that will perform harvesting activities in any forest in Romania (with the exception of private owners that harvest up to 20 cubic metres from their own forest) have to be certified for a certain amount of timber per year by the Commission for Certification of Forest Harvesting Contractors, within the Association of Foresters in Romania (ASFOR) (OM 1330/2015). The certification is based on the number of employees with a technical forestry background (technical school or faculty) and the presence of harvesting equipment (tractors, chainsaws, tower yarders etc.). The existence of harvesting certificate is conditional to obtain the harvesting permit.

Description of Risk

The risks related to harvesting permits originate in the issuing procedures and in the difficulty of controlling the decision system behind establishing the types of cuts, the drafting of APVs and the monitoring of the chain of custody through the wood tracking

application. The results of the National Forest Inventory show a difference between the volume harvested (computed through inventory) and the volume recorded in legal documents (annual reports of each FME to the National Statistical Institute, containing a centralisation of the volumes harvested by types of cuts – regeneration, thinning, conservation, and sanitary or accidental cuts) of about 8.8 million cubic metres each year. This volume is considered to be illegally harvested (without a permit or on the basis of underestimated inventories) (Government decision regarding the establishment of the Forest Guards, Emergency Ordinance 32/2015 regarding the establishment of the Forest Guards. This amount of 8.8 million cubic meters is not categorised by region or ownership types and is valid for the entire country.

The Audit Report of the Romanian Court of Accounts (2014) states several causes and means by which the illegally logged volume is introduced into the chain of custody:

- Ownership fragmentation and insufficient marking of property boundaries in the field, and lack of administration contracts for every forest area (415,155 ha of forest was not under guarding and administrative contracts with authorised Forest districts in 2013), leading to the possible issuing of harvesting permits for areas outside the boundaries of the relevant property;
- Harvesting permit issued masking of illegal logging as inventory for “accidental cuts”, which are not always justified or properly checked;

According to NGOs active in recent years (Greenpeace, WWF, Agent Green, Environmental Investigation Agency, Ecopolis, Nostra Silva) all of these situations can arise in a climate of a lack of proper enforcement of justice. The case study presented by Ecopolis in 2012 showed that of 7,168 initiated cases (concerning damage exceeding 5m³), only 723 dossiers had been filed in Court, the rest having been dismissed by the prosecution. Out of these 723, only 4% (34 cases) led to a custodial sentence being imposed, while 60% received suspended sentences and 36% received pecuniary penalties.

However, in the years since, measures to control illegal logging have increased, and as a result, in 2015, about 35,000 cases of illegal logging were recorded (compared to about 10,000 in 2011) (Greenpeace, 2015) and in 2016, 9444 cases of illegal logging (Greenpeace, 2015). Decreasing the number of cases of illegal cuts is the result of the new Legislative provisions that increased the number and amount of sanctions, of a Greater involvement of civil society in the process of reporting illegal logging and increasing the role of county police in the process of controlling and sanctioning.

. Also, the Forest RADAR (mobile application to check the legality of timber transport) resulted in 16,214 calls in 2016 and 19,946 calls in 2015 for verification of the legality of wood transports, out of which 20% in 2016 and 17% in 2015 were discovered to be illegal. This does not necessarily mean that illegal cuts had proliferated in 2015, just that a more detailed approach by the authorities had uncovered wrongdoing more effectively.

Following legal requirements for the harvesting validation, the timber volumes harvested in the field must be accurately similar with the VED, even though the VED is an estimative document (error margin of 5 % with a 68 % of probability, or error of 8-10 % with 95 % of probability). This legal requirement does not correspond with the real situation in the field.

The correction situations of the VED that are mentioned by MO 1507/2016 refer only to verifications of the VED prior to timber harvesting and no further corrections can be made using the more accurately measured volume of logs after harvesting.

In practice, a majority of timber harvesting result which corresponds to the initial estimation with differences below 1 m³ raise concerns, considering that the 10% accuracy for 500 m³ on VED means 50 m³.

In the last year, the modifications of the law 171/2010 regarding the penalties for contraventions related to the forestry sector includes severe punishments including for violations related to Volume Estimation Documents (VEDs) drafting, approval and verification. As the modification of the law is only active since 20th of October 2016, its results in practice as a risk mitigation have yet to be evaluated.

Harvesting certification

In order to be registered, timber harvesting contractors must present a list of equipment and technical personnel that should cover the volume of timber which can be harvested by the contractor in a one-year period. The persons have to be employed full time and only in one firm. Controls were made of firms that have a valid contract for verification of continuous employment of technical personnel. The risk related to the issue of harvesting certificate is concerning the state of the machinery used in forest, usually, with several years of use, representing a hazard for health and safety and environment. The harvesting permit is issued based on a valid harvesting certificate.

Thus, the wood selling procedure regarding standing stock is based on the volume estimation document which does not represent the real quantity of wood obtained by harvesting. The harvesting certification issued for logging companies does not represent in practice the technical capacity of the company.

Risk Conclusion

This indicator has been evaluated as specified risk. Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.

1.4.6. Risk designation and specification

Specified risk

1.4.7. Control measures and verifiers

- Verify logging area boundaries in the field to ensure harvesting has taken place within boundaries.
- Cross-check volumes and assortments in SUMAL.
- Require the use of a Wood Tracking App and check the online code and its validity in order to verify threshold to be harvested is not exceeded.
- Verify the accuracy of inventories for APV drafting.

- Control assortments (industrial wood and firewood) by comparing the estimation volume from the APV with the harvesting result.

TAXES AND FEES

1.5. Payment of royalties and harvesting fees

Legislation covering payment of all legally required forest harvesting specific fees such as royalties, stumpage fees and other volume based fees. It also includes payments of the fees based on correct classification of quantities, qualities and species. Incorrect classification of forest products is a well-known issue often combined with bribery of officials in charge of controlling the classification.

1.5.1. Applicable laws and regulations

- Government Emergency Ordinance 1962 December 2005 on the fund for the environment (Art. 9, f.). Available at: <http://legislatie.just.ro/Public/DetaliiDocument/67529>
- Law 46/2008 republished in 2015 Forestry code (Art. 33). Available at: <http://legislatie.just.ro/Public/DetaliiDocument/170527>
- Law 56/2010 the accessibility of forest (Art. 5). Available at: <http://legislatie.just.ro/Public/DetaliiDocument/117299>
- Government Decision no. 924 / 4 November 2015 for the approval of the rules for selling timber annually harvested in the public property forest fund (Art. 25). Available at: <http://legislatie.just.ro/Public/DetaliiDocument/172892>

1.5.2. Legal authority

- Environment Fund Administration
- Ministry of Public Finances; National Agency for Fiscal Administration (ANAF)
- Fee payment receipts

1.5.3. Legally required documents or records

N/A

1.5.4. Sources of information

Government sources

- Environment Fund Administration (N.Y.). *Privind plata contributiei la Fondul pentru mediu*. [online]. Available at: <http://www.afm.ro/declaratii.php> [Accessed on 14 November 2016].
- National Agency for Fiscal Administration (N.Y.). [online]. Available at: https://www.anaf.ro/anaf/internet/ANAF/acasa/!ut/p/a1/04_Sj9CPykssy0xPLMnMz0vMAfGjzOI9DD3MPIwsjLwsHF2dDBYdLfxCLZyBAu7GQAWRQAUGOICjASH94fpR-JS4uxhDFeCwxks_Kj0nPwns3EjHvCRji3T9qKLUtNSi1CK90iKgcEZJSUGxlaqBqkF5ebleYlSiml5RvqoBNvUZ-cUl-hFIyvQLciMMskxzynwcFRUBQAKIqw!!/dI5/d5/L2dBISEvZ0FBIS9nQSEh/ [Accessed on 14 November 2016].

Non-Government sources

N/A

1.5.5. Risk determination

Overview of Legal Requirements

Volume-based taxes and fees are specifically defined for each single agreement/licence, and therefore no general requirements can be outlined. Usually, surety bond is requested by the forest district to ensure that the licenced activities are executed correctly. The deposit is returned once operations have been properly carried out.

The environmental Fund consists of 2% of the value of wood (excepting fuel wood and ornamental trees).

The Accessibility Forest Fund consists of 10% of the value of wood sold from accidental and regeneration cuts. According to the (2) Law no. 227/2015- Fiscal Code, art. 486, line 2, can be set by Local Councils or Forest Administrators a local road tax or road tolling payment for entities that have equipment and machinery and use them on public local infrastructure, as well as taxes for activities which have an environmental impact

Description of Risk

After the harvesting agreement and the harvesting permit are registered, it is practically not possible to avoid payment of taxes due to the cross checking methods between documents: Invoice, VED, harvesting permit, SUMAL, Delivery notes, harvesting result conducted by the forest guard and Finance guard. Thus, timber harvested under a legal harvesting permit is considered to be of low risk of tax avoidance.

The risk on avoiding the road tolling payment appears due to forest ownership and management fragmentation, respectively of forest roads distribution. The timber owner and road owner/manager is not the same entity and thus cannot charge this road toll. In such situations, some of the operators avoid paying this tax by not informing the rightful owner/administrator of the road.

This indicator has been evaluated as specified risk only for road tolling payment

Risk Conclusion

Identified laws are not upheld consistently by all entities and/or are often ignored, and/or not enforced by relevant authorities.)

1.5.6. Risk designation and specification

specified risk

1.5.7. Control measures and verifiers

Require access to information / requirement of additional documents regarding the inclusion of the road tolling in the contract of wood procurement (linked to the standing volume in the VED).

1.6. Value added taxes and other sales taxes

Legislation covering different types of sales taxes, which apply to the material being sold, including selling material as growing forest (standing stock sales). Risk relates to situations where products are sold without legal sales documents or far below market price resulting in illegal avoidance of taxes.

1.6.1. Applicable laws and regulations

- Law 227 / 8 September 2015 Fiscal Code (Chapter VII). Available at: <http://legislatie.just.ro/Public/DetaliiDocument/171282>
- Law 46/2008 republished in 2015 Forestry code (Art. 126). Available at: <http://legislatie.just.ro/Public/DetaliiDocument/170527>

1.6.2. Legal authority

- Ministry of Public Finances; National Agency for Fiscal Administration (ANAF)

1.6.3. Legally required documents or records

- Invoice

1.6.4. Sources of information

Government sources

- Mfinante.ro (N.Y). *Ministerul Finanțelor a publicat normele de aplicare a noului Cod Fiscal* (General clarifications about the Methodological norms for the application of the Law regarding taxes). [online] Available at: <http://www.mfinante.ro/acasa.html?method=detalii&id=120035>

Non-Government sources

- Infotva.ro (2015). *Taxarea inversa pentru livrarea de materiale lemnoase. Se aplica masurile de simplificare pentru livrarea pomilor de Caciun?* [Online]. 15 July 2015. Available at: <http://infotva.manager.ro/articole/infotva/taxarea-inversa-pentru-livrarea-de-materiale-lemnoase-se-aplica-masurile-de-simplificare-pentru-livrarea-pomilor-de-caciun-9077.html>. [Accessed 14 November 2016].

1.6.5. Risk determination

Overview of Legal Requirements

The following products are not subject to value added taxes: logs or rough wood, planks, boards, strips, beams, sawn wood, processed wood (assortments from cutting operations).

Description of Risk

After the invoice is registered, it very difficult to avoid payment of taxes. All taxes based on invoices are calculated by special programmes (electronic accounting records, online statements, etc.) and their collection is mainly based on an electronic system. The system is considered to be well implemented. For standing stock and wood materials VAT are not applicable.

Risk Conclusion

This indicator has been evaluated as low risk. Identified laws are upheld. Cases where law/regulations are violated are efficiently followed up via preventive actions taken by the authorities and/or by the relevant entities.

1.6.6. Risk designation and specification

Low risk

1.6.7. Control measures and verifiers

N/A

1.7. Income and profit taxes

Legislation covering income and profit taxes related to the profit derived from sale of forest products and harvesting activities. This category is also related to income from the sale of timber and does not include other taxes generally applicable for companies or related to salary payments.

1.7.1. Applicable laws and regulations

- Government Decision no. 924 / 4 November 2015 for the approval of the rules for selling timber annually harvested in the public property forest fund. Available at: <http://legislatie.just.ro/Public/DetaliiDocument/172892>
<http://legislatie.just.ro/Public/DetaliiDocumentAfis/175690>
- Ordinance no. 6/2013 establishing specific measures for taxation exploitation of natural resources other than gas (Art. 2 (3)). Available at: <http://legislatie.just.ro/Public/DetaliiDocument/144896>
- Law 227/8 September 2015 Fiscal Code (Art. 2). Available at: <http://legislatie.just.ro/Public/DetaliiDocument/171282>

1.7.2. Legal authority

- Ministry of Public Finances; National Agency for Fiscal Administration (ANAF)

1.7.3. Legally required documents or records

- Fee payment receipts

1.7.4. Sources of information

Government sources

- Mfinante.ro (N.Y). *Ministerul Finanțelor a publicat normele de aplicare a noului Cod Fiscal* [online]. (General clarifications about the Methodological norms for the application of the Law regarding taxes). Available at: <http://www.mfinante.ro/acasa.html?method=detalii&id=120035>

Non-Government sources

- Avocatnet.ro (2015). *Impozitul pe profit: ce se schimba din 2016, potrivit noului Cod fiscal?* [Online] 28 September 2015]. Available at: http://www.avocatnet.ro/content/articles/id_41544/Impozitul-pe-profit-ce-se-schimba-din-2016-potrivit-noului-Cod-fiscal.html [Accessed 14 November 2016].

1.7.5. Risk determination

Overview of Legal Requirements

Income and profits are taxed as follows: 16% is paid on profits, and an additional 0.5% on income from harvesting activities.

Description of Risk

The Romanian state had made substantial investments in recent years in the modernisation of its tax collection regime. Today, almost all taxes are calculated by special programmes (electronic accounting records, online statements, etc.) and their collection is mainly based on electronic systems. All economic activities are taxed under the Fiscal Code. In 2015 a special Agency was founded to check financial records, statements and other documents required for tax calculation before issuing permits. This measure forced many companies to legally register all activities. After activities are legally registered there is a strong check between payment of taxes and activities performed by companies.. All companies' or employed persons' activities, like updating personal documents, participation in tenders, loans, etc., depend upon their due payment of taxes and fees.

By checking the publicly available FM audit reports for 24 certificates for the period 2013 – 2017, 621 non-conformities were issued, from these 621 not one refers to the payment of taxes and fees.

Risk Conclusion

This indicator has been evaluated as low risk. Identified laws are upheld. Cases where law/regulations are violated are efficiently followed up via preventive actions taken by the authorities and/or by the relevant entities.

1.7.6. Risk designation and specification

Low risk

1.7.7. Control measures and verifiers

N/A

TIMBER HARVESTING ACTIVITIES

1.8. Timber harvesting regulations

Any legal requirements for harvesting techniques and technology including selective cutting, shelter wood regenerations, clear felling, transport of timber from felling site and seasonal limitations etc. Typically this includes regulations on the size of felling areas, minimum age and/or diameter for felling activities and elements that shall be preserved during felling etc. Establishment of skidding or hauling trails, road construction, drainage systems and bridges etc. shall also be considered as well as planning and monitoring of harvesting activities. Any legally binding codes for harvesting practices shall be considered.

1.8.1. Applicable laws and regulations

- Forestry Code 46/2008 with further modifications, article 20 (line 10) 33 60 62 65 66 122. Available at: <http://legislatie.just.ro/Public/DetaliiDocument/170527>
- Ministerial Order 1540/2011 regarding the Instructions for wood harvest. Available at: <http://legislatie.just.ro/Public/DetaliiDocument/129446>
- Order no. 1798/2010 Procedure for issuance of the environmental permit (Art. 19). Available at: <http://legislatie.just.ro/Public/DetaliiDocumentAfis/143346>

1.8.2. Legal authority

- Forest Guards
- Forest district
- Environmental Protection Agency

1.8.3. Legally required documents or records

- Harvesting certification (for the harvesting firm, issued by the Romanian Foresters Association)
- Harvest authorisation (for each harvesting site, issued by the forest district chief)
- Environmental permit from the Environmental Protection Agency
- Volume estimation document (VED)

1.8.4. Sources of Information

Government sources

N/A

Non-Government sources

- ASFOR (2016). *Proposals for the modification of the Rules 1330/2015*. [online]. Available at: <http://www.asociatiaforestierilor.ro/anunturi/263--propuneri-asfor-regulament-13302015>. [Accessed 14 November 2016].

- ASFOR (2016). *Online petition for the revision of the methodology for issuing the environmental permit*. (Petiție Online Referitoare la Revizuirea Autorizației de Mediu) [online]. Available at: <http://www.asociatiaforestierilor.ro/anunturi/261-petitie-mmmap-aut-mediu>. [Accessed 14 November 2016].
- FSC: Publicly available FSC FM audit reports within the period 2013-2017.

1.8.5. Risk determination

Overview of Legal Requirements

After authorisation, the harvesting site is officially presented for harvest to the harvesting contractor, and training is provided regarding the type of felling, the size of the area, the skidding trails (marked in the field on surrounding trees), the admissible damage to regeneration and to remaining trees etc. Only in cases of private forest owners that harvest up to 20 cubic metres with their own equipment from their own forest are these requirements waived.

The harvesting process is controlled by the Forest district or Forest Guard while underway and at completion, to mitigate any damage and illegalities occurring at the harvest site or at the primary deposit site.

The Harvesting Instruction Ministerial Order (1540/2011) clearly forbids the hauling of trees with crowns in any harvest site, whether clear cut, shelterwood or thinning. It also forbids skidding through water courses, unless authorised by the Forest district chief in cases where there are no alternative routes. Any stream or river crossing must be undertaken with the use of mobile bridges or logs. The silviculture system limits the type of harvest: in clearcuts, the maximum harvesting site is limited to 3 ha in Norway spruce stands and 5 ha in hybrid poplar stands; in shelterwood systems, the harvesting process can be undertaken only outside the vegetation season and only in periods when the soil is not moist from rain or snow melt.

Description of Risk

The main risks associated with forest harvesting are related to harvesting firms being authorised without their claims regarding equipment, machinery and sufficiently trained staff being verified. This leads to violation of the harvesting requirements.

The procedure to apply for environmental authorisation from the Environmental Protection Agency is, in many cases, time consuming and delays the start of the forest harvesting process. In some cases, these delays can prolong harvesting beyond the permitted period and force firms to resume the harvest in the next winter (in cases of shelterwood systems).

By checking the publicly available FM audit reports for 24 certificates for the period 2013 – 2017, 621 non-conformities were issued, 33% refers to timber harvesting regulations.

Risk Conclusion

This indicator has been evaluated as specified risk. Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.

1.8.6. Risk designation and specification

Specified risk

1.8.7. Control measures and verifiers

- FME shall provide records of training for harvesting requirements.
- FME shall provide records of forest harvesting controls during and after the harvest.
- The harvest design for each site shall contain harvest technology, location of forest roads, skidding trails and primary log yard
- Each harvest site shall have a billboard stating the location (FME, FMU, compartment, number of harvest site), the harvest permit number, contractor and harvest period in order to provide publicly available information necessary for public and third parties to identify proper implementation of harvesting activities.

1.9. Protected sites and species

International, national, and sub national treaties, laws, and regulations related to protected areas allowable forest uses and activities, and/or, rare, threatened, or endangered species, including their habitats and potential habitats. Risk relates to illegal harvesting within protected sites, as well as illegal harvest of protected species. Note that protected areas may include protected cultural sites, including sites with historical monuments.

1.9.1. Applicable laws and regulations

- Law no. 95/2016 regarding the establishment of the National Agency for Protected Areas and for modification of Emergency ordinance 57/2007 regarding the protected areas regime and habitat conservation [*LEGE nr. 95 din 11 mai 2016 privind înființarea Agenției Naționale pentru Arii Naturale Protejate și pentru modificarea Ordonanței de urgență a Guvernului nr. 57/2007 privind regimul ariilor naturale protejate, conservarea habitatelor naturale, a florei și faunei sălbatice*]. Available at: <http://legislatie.just.ro/Public/DetaliiDocument/178452>
- Emergency ordinance 57/2007 regarding the protected areas regime, conservation of natural habitats and wild flora and fauna [*ORDONANȚĂ DE URGENȚĂ nr. 57 din 20 iunie 2007, privind regimul ariilor naturale protejate, conservarea habitatelor naturale, a florei și faunei sălbatice*]. Available at: <http://legislatie.just.ro/Public/DetaliiDocument/83289>
- Decision no. 230/2003 on the delimitation of biosphere reserves, national parks and natural parks and setting up their administrations. Available at: <http://legislatie.just.ro/Public/DetaliiDocument/42901>
- Law 5/2000 on the approval of the National Landscaping – Section III – protected areas (Art. 10). Available at: <http://legislatie.just.ro/Public/DetaliiDocument/21860>
- Order no. 1052/2014 approving the Methodology for protected natural areas custody (Art. 29, 5). Available at: <http://legislatie.just.ro/Public/DetaliiDocumentAfis/161580>
- Ministerial order 19/2010 for approval of the Methodological guide for adequate evaluation of potential effects of the plans or projects on natural protected areas of community importance [*ORDIN nr. 19 din 13 ianuarie 2010 pentru aprobarea Ghidului*

metodologic privind evaluarea adecvată a efectelor potențiale ale planurilor sau proiectelor asupra ariilor naturale protejate de interes comunitar]. Available at: <http://legislatie.just.ro/Public/DetaliiDocument/115888>

- Order 1417/2016 regarding the establishment of the National Catalogue of Virgine and Quasivirgine forests in Romania [*Ordinul nr. 1417/2016 privind constituirea Catalogului național al pădurilor virgine și cvasivirgine din România*]. Available at: <http://legislatie.just.ro/Public/DetaliiDocument/180307>
- Law 137/2010 for ratifying the Protocol regarding the conservation and sustainable use of biological and landscape diversity [*Legea nr. 137/2010 pentru ratificarea Protocolului privind conservarea și utilizarea durabilă a diversității biologice și a diversității peisajelor, adoptat și semnat la București la 19 iunie 2008, la Convenția-cadru privind protecția și dezvoltarea durabilă a Carpaților, adoptată la Kiev la 22 mai 2003*]. Available at: <http://legislatie.just.ro/Public/DetaliiDocument/120402>
- Ordinance no. 1964/2007 protected area of sites of Community importance as part of the European ecological network Natura 2000 in Romania.

1.9.2. Legal authority

- Ministry of Environment, Water and Forests
- Environmental Protection Agency
- Forest Guard
- National and Nature Park Administrations
- Custodians of Natura 2000 sites

1.9.3. Legally required documents or records

- Nature protection area management plan, implemented in the Forest Management Plan (if applicable)
- Harvest plan approved by the custodian of the Natura 2000 site or park administration (if applicable)

1.9.4. Sources of Information

Government sources

- Ministry of Environment, Water and Forests (2015). *Mapping of the potential risk areas for illegal logging and illegal timber trade in Romania*. [online]. Available at: <http://www.mmediu.ro/categorie/paduri/25>
- Ministry of Environment, Water and Forests (2016). *The stage of approval of management plans for Parks reservations and Natura 2000 sites*. [online]. Available at: <http://www.mmediu.ro/articol/baza-de-date-privind-ariile-naturale-protejate-si-aprobarea-planurilor-de-management-ale-acestora/1664>

Non-Government sources

- WWF-DC (2006). *County level maps of the potential risk areas for illegal logging and illegal timber trade in Romania and HCVMs*. [online]. Available at: http://www.certificareforestiera.ro/pag/harta_risc.php
- Mediafax (2013). *Illegal deforestation: Over 900 ha of forests clearcut in Arges, in a protected area* [online]. (Defrișări ilegale: Peste 900 de hectare de pădure tăiată la ras în Argeș, într-o zonă protejată). Declaration of Lucia Varga, Ministry of Water and Forests Available at: <http://www.mediafax.ro/social/defrisari-ilegale-pest-900-de-hectare-de-padure-taiata-la-ras-in-arges-intr-o-zona-protejata-11601701>

1.9.5. Risk determination

Overview of Legal Requirements

The nature protection system includes one biosphere reserve, 12 National Parks, 13 Natural Parks, 383 Sites of Community Importance (SCI) and 148 Special Protection Areas (SPA).

All forest areas have to be under the administration of state or private Forest Management Enterprises (FME), regardless of the fact that certain areas are included in a protection site. The custody of protected areas focuses on the management of the objectives that led to their establishment (protection of species, landscapes etc.) and not to the administration of the resources (forests, pastures etc.).

The national and natural parks have a separate administration, while the custody of other reservations, SCI or SPA are assigned by auctions. Auctions are organised by the Environmental Protection Agency and custody can be assigned to private or state Forest Management Enterprises, environmental NGOs, research or educational institutions or existing park administrations.

The Nature protection areas database (IUCN category I and III) lists 691 sites, some of them overlapping with the aforementioned protected areas (<http://www.mmediu.ro/categorie/arii-naturale-protejate/16>).

There is an on-going effort to draft management plans for the national parks and other Natura 2000 sites. The drafted plans are in different stages of approval by different institutions of the state, according to the Database on Protected Natural Areas and their management plans approvals (<http://www.mmediu.ro/articol/baza-de-date-privind-ariiile-naturale-protejate-si-aprobarea-planurilor-de-management-ale-acestora/1664>). The parks and Natura 2000 sites overlap with and contain, in most cases, strictly protected natural reserves, which can be located both in forests and in other types of land ecosystems.

Timber sourcing is permitted in areas of the sites that are not included in the strict reserve. However, any harvest in the parks or Natura 2000 sites must be pre-approved by the local environmental agencies or park administrations. Identified buffer zones, protected habitats and species are to be protected as set-aside areas specified in the forest management plan.

Description of Risk

Risk of:

- Protected areas without a valid management plan – there are still 16 parks and 47 Natura 2000 without a valid management plan in Romania, which can lead to illegal harvesting and wrong harvesting techniques. (<http://www.mmediu.ro/articol/baza-de-date-privind-ariile-naturale-protejate-si-aprobarea-planurilor-de-management-ale-acestora/1664>);
- Insufficient stakeholder consultation during the development of the management plans for protected areas, which can affect the quality of the management plans;
- Insufficient integration of protected areas management plans into Forest Management Plans which can lead to the use of wrong management techniques;
- Lack of information regarding the management plan of forest district staff
- Conflict of interest between the forest administrators and the Natura 2000 custodians or park administration (there are cases where they are one and the same, even though, for example, the custodian has to approve the forest harvest plan of the FME);
- Illegal logging in protected areas (examples have been given by environmental NGOs, and there has been a declaration by delegates of the Ministry of Water and Forests about massive clearcuts in protected areas). The WWF has produced county-by-county maps of areas with high risks for illegal logging and HCVPs identified as strictly protected areas (1.1, 3D) (WWF-DC, 2006).

Risk Conclusion

This indicator has been evaluated as specified risk. Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.

1.9.6. Risk designation and specification

Specified risk

1.9.7. Control measures and verifiers

- FME staff shall demonstrate knowledge about the location of protected areas in the managed FMUs, protection objectives and protective measures in the protected area management plan (if applicable).
- The FMP shall include measures to ensure the conservation status of the protected area (if applicable).
- Field verifications shall also include parts of the protected areas.
- FME shall implement a system for controlling harvesting sites that includes verifications of protected area management measures.

1.10. Environmental requirements

National and sub-national laws and regulations related to the identification and/or protection of environmental values including but not limited to those relating to or affected by harvesting, acceptable level for soil damage, establishment of buffer zones (e.g. along water courses, open areas, breeding sites), maintenance of retention trees on felling site, seasonal limitation of harvesting time, environmental requirements for forest machineries, use of pesticides and other

chemicals, biodiversity conservation, air quality, protection and restoration of water quality, operation of recreational equipment, development of non-forestry infrastructure, mineral exploration and extraction, etc... Risk relates to systematic and/or large-scale non-compliance with legally required environmental protection measures that are evident to an extent that threatens the forest resources or other environmental values.

1.10.1. Applicable laws and regulations

- Emergency Ordinance no. 195/2005 regarding environmental protection (Art. 69), [ORDONANȚĂ DE URGENȚĂ nr. 195 din 22 decembrie 2005]. Available at: <http://legislatie.just.ro/Public/DetaliiDocument/67634>
- Ministerial Order 1540/2011 regarding the approval of harvesting instructions, dates and technologies. Available at: <http://legislatie.just.ro/Public/DetaliiDocument/129446>
- Decision no. 1076/2004 procedure for environmental assessment of plans and programmes (Art. 2, a). Available at: <http://legislatie.just.ro/Public/DetaliiDocument/54164>
- Order no. 1798/2010 Procedure for issuance of the environmental permit (Art. 19). Available at: <http://legislatie.just.ro/Public/DetaliiDocumentAfis/143346>

1.10.2. Legal authority

- Ministry of Environment, Water and Forests
- Environmental Protection Agency

1.10.3. Legally required documents or records

- Environmental authorisation for harvesting contractors and harvesting sites
- Environmental agreement for Forest Management Plans

1.10.4. Sources of information

Government sources

N/A

Non-Government sources

- Halalisan, A.F. (2014). *Certification of forest management and chain of custody in Romania: a market instrument and a mean to promote sustainable forest management*. (Certificarea managementului forestier și a lanțului de custodie în România: instrument de piață și mijloc de promovare a gestionării durabile a pădurilor), PhD Thesis, Transylvania University in Brasov.
- Hotnews (2014). *Preliminary conclusions of the report of the control body of the Environmental Ministry in the case the floods in Novaci: illegal harvests and nonconformities in sand and gravel exploitation*. [online]. (Concluziile preliminare ale raportului facut de corpul de control al ministrului Mediului in cazul inundatiilor din Novaci: defrisari ilegale si exploatare neconforme de nisip si pietris). Available at: <http://www.hotnews.ro/stiri-mediu-17879288-concluziile-preliminare-ale-raportului->

facut-corpul-control-ministrului-mediului-cazul-inundatiilor-din-novaci-defrisari-ilegale-exploatare-neconforme-nisip-pietris.htm

1.10.5. Risk determination

Overview of Legal Requirements

Each harvesting contractor or FME with a forest harvesting division has to obtain an environmental permit from the Regional Environmental Protection Agency (REPA), for the entire activity and for each harvesting site for the coming year. The conditions for the authorisation include legislative conditions (a valid Forest Management Plan, VED, harvest authorisation from the Forest district etc.), harvesting technologies and conditions (mostly according to OM 1540/2011), biodiversity requirements (harvest of protected species, disturbance of nesting areas etc.) and requirements related to forest harvesting in protected areas (obligation to obtain a permit from the park administration or Natura 2000 custodian).

Description of Risk

The FSC audit analysis of the nonconformities identified in Romanian FMEs showed that 41.8% of non-conformances from a total of 154 were related to forest harvesting (Halalisan, 2014); the most frequent were referring to skidding trails, damage to remaining trees, and water protection.

As an example, a Report by the Ministry of Environment showed that the following illegalities were encountered: forest harvests done according to a Forest Management Plan without an environmental permit or without a ministerial decision; timber harvesting done by contractors without an environmental permit; violations of environmental legislation on the authorisation of harvesting sites (by REPA); authorisation of harvest documents without the approval of the corresponding custodian of the Natura 2000 site, and; authorisation of harvesting activities after their completion (Hotnews, 2014).

Legislative requirements were changed two years ago, without application rules having been issued or capacity assured. This leads to a risk of the Regional Environmental Protection Agency to issue environmental permits without visiting the forest, as a result, the environmental regulations are seen just as a formality.

Risk Conclusion

This indicator has been evaluated as specified risk. Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.

1.10.6. Risk designation and specification

Specified risk

1.10.7. Control measures and verifiers

- FME/contractors shall provide issued environmental permit prior to the start of harvesting.
- FME shall provide proof of notification of custodian of protected areas (if applicable) and their approval of the harvest plan and VED.

- FME shall implement a system of controlling harvesting sites that includes verifications of environmental requirements. This can be done through review of environmental permit, harvesting technology document and on-site audits.

1.11. Health and safety

Legally required personnel protection equipment for persons involved in harvesting activities, use of safe felling and transport practice, establishment of protection zones around harvesting sites, and safety requirements to machinery used. Legally required safety requirements in relation to chemical usage. The health and safety requirements that shall be considered relate to operations in the forest (not office work, or other activities less related to actual forest operations). Risk relates to situations/areas where health and safety regulations are consistently violated to such a degree that puts the health and safety of forest workers at significant risk throughout forest operations.

1.11.1. Applicable laws and regulations

- Law no. 319/2006, on work health and safety. Available at: <http://legislatie.just.ro/Public/DetaliiDocument/73772>
- Government Decision no. 1425/2006, modified by HG no. 955/2010 and Government Decision no. 1242/2011, Standard Method for the implementation of Law no. 319/2006. Available at: <http://legislatie.just.ro/Public/DetaliiDocument/76337>
- Government Decision no. 1051/2006 on minimal requirements for work health and safety during the manual handling of volumes which present risks for workers, especially back injuries. Available at: <http://legislatie.just.ro/Public/DetaliiDocument/74429>
- Government Decision no. 1146/30.08.2006 on minimal requirements for health and safety for the use of work equipment by workers. Available at: <http://legislatie.just.ro/Public/DetaliiDocument/75585>
- Government Decision no. 1091/16.08.2006 on minimal requirements for health and safety in the workplace. Available at: <http://legislatie.just.ro/Public/DetaliiDocument/74708>
- Government Decision no. 971/26.07.2006 on minimal requirements for health and safety signalling in the workplace. Available at: <http://legislatie.just.ro/Public/DetaliiDocument/74127>
- Government Decision no. 1048/09.08.2006 on minimal requirements for health and safety for the use of personal protective equipment by workers in the workplace. Available at: <http://legislatie.just.ro/Public/DetaliiDocument/74559>
- Government Decision no. 300 in 02/03/2006 on minimal requirements for health and safety on temporary or mobile sites. Available at: <http://legislatie.just.ro/Public/DetaliiDocument/69995>
- Government Decision no. 493 in 12/04/2006 on minimal requirements for health and safety related to the exposure of workers to noise risks. Available at: <http://legislatie.just.ro/Public/DetaliiDocument/71198>
- Order of the Ministry for Work, Social Solidarity and Family (MMSSF) no. 3/03.01.2007 for the approval of the Form for work accident recording – FIAM and of

the instructions of filling in the form. Available at:

<http://legislatie.just.ro/Public/DetaliuDocument/79176>

- Government Decision no. 355 in 11 April 2007 on the monitoring of workers' health. Available at: <http://legislatie.just.ro/Public/DetaliuDocument/82130>

1.11.2. Legal authority

- Labour Inspection – Ministry of Labour, Family, and Social Protection

1.11.3. Legally required documents or records

- Identification and assessment of risk at work – Law 319, Art. 12 Lit. of
- Instructions own safety and health at work
- Training records in safety and health at work
- Employment and periodic medical tests – Law 319, Art. 13, Lit. j
- Prevention and protection plan

1.11.4. Sources of information

Government sources

- itmnures.ro (N.Y). *Tematica de Control Pentry Domeniul Exploatarilor Forestiere*. [online] Available at: <http://www.itmmures.ro/Tematici%20de%20control%20in%20domeniile%20silvicultu%20ra,%20expl%20forestiere,%20taierea%20si%20rindeluirea%20lemnului.pdf> [Accessed 14 November 2016].
- Inspectia Muncii (2013). *Raport de activitate a Inspectiei Municipii – 2013*. [online]. Available at: <https://www.inspectiamuncii.ro/raport-anual-al-activitatii-inspectiei-muncii> _[
- Inspectia Muncii (2014). *Accidente de Munca Inregistrate – 2014*. [online]. Available at: <https://www.inspectiamuncii.ro/statistici-accidente-de-munca>

Non-Government sources

FSC: Publically available FSC FM audit reports within the period 2013-2017.

1.11.5. Risk determination

Overview of Legal Requirements

Health and safety in forestry activities is monitored by the Labour Inspectorate. The Occupational Health and Safety Act sets out the requirements for work performed by employees and officials (hereinafter “employees”), the rights and obligations of employers and employees in creating and ensuring a working environment which is safe for health, the organisation of occupational health and safety in enterprises and at state level, the procedure for challenge proceedings, and the liability for violation of the occupational health and safety requirements.

According to the Labour Inspectorate's report for 2013, the total number of work-related fatalities in that year was eleven (5.5% of all fatal accidents in Romania).

Description of Risk

Notwithstanding the presence of a robust normative framework that, in theory, should safeguard workers, casual labour is a common phenomenon in Romania. By checking the publicly available FM audit reports for 24 certificates for the period 2013 – 2017, 621 non-conformities were issued, from these 77 regarding H&S issues (28 for lack of the H&S equipment, 22 for procedures and trainings, 19 for trees cutting, 8 for first aid kit). During consultations with stakeholders and members of the working group there is a common that most of the H&S procedures are essentially theoretical and are not properly implemented in the field. Companies' employees are sceptical of using protective equipment and are still not in the habit of using it. Machinery used in the forest sector is old, particularly forest tractors. Available data from the Labour Inspectorate for the forestry sector are scarce and their quality is low, but during consultation with stakeholders and the CW Working Group there was a common perception that forestry in Romania is moving towards better implementation of the law. Currently, however, the risk should be considered 'specified'.

Risk Conclusion

This indicator has been evaluated as specified risk. Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.

1.11.6. Risk designation and specification

Specified risk

1.11.7. Control measures and verifiers

- Request the periodic labour control report (Conducted by the Labour Inspectorate and/or Forest district based on control visits). The Labour Inspectorate and/or Forest district notify the harvesting companies regarding the identified gaps in the implementation of health and Safety provisions. Request report of the company on how the gaps has been addressed.

1.12. Legal employment

Legal requirements for employment of personnel involved in harvesting activities including requirement for contracts and working permits, requirements for obligatory insurances, requirements for competence certificates and other training requirements, and payment of social and income taxes withhold by employer. Furthermore, the points cover observance of minimum working age and minimum age for personnel involved in hazardous work, legislation against forced and compulsory labour, and discrimination and freedom of association. Risk relates to situations/areas where systematic or large scale noncompliance with labour and/or employment laws. The objective is to identify where serious violations of the legal rights of workers take place, such as forced, underage or illegal labour.

1.12.1. Applicable laws and regulations

- Law no. 53/2003 Labour Code. Available at: <http://legislatie.just.ro/Public/DetaliiDocumentAfis/179907>
- Emergency ordinance no. 59/2000 on the status of forestry employees. Available at: <http://legislatie.just.ro/Public/DetaliiDocument/22526>
- Law no. 52/2011 on activities carried out by occasional day labourers. Available at: <http://legislatie.just.ro/Public/DetaliiDocument/127831>

1.12.2. Legal authority

- Labour Inspectorate – Ministry of Labour, Family, and Social Protection

1.12.3. Legally required documents or records

- Labour contract
- Employment contract

1.12.4. Sources of information

Government sources

N/A

Non-Government sources

- Agerpres.ro (2016). *VIDEO UPDATE, Cazul de sclavie din Argeş: Procurorii au găsit cinci victime în lanțuri*. Available at: <http://www.agerpres.ro/social/2016/07/13/cazul-de-sclavie-din-arges-procurorii-au-gasit-cinci-victime-in-lanturi-15-25-49>

1.12.5. Risk determination

Overview of Legal Requirements

- Persons involved in harvesting activities shall hold required certificates of competence for the function they carry out.
- At least the legally established minimum salaries shall be paid for personnel involved in harvesting activities.
- Salaries shall be paid officially and declared by the employer according to requirements for personnel involved in harvesting activities.
- Minimum age shall be observed for all personnel involved in harvesting activities.
- Staff shall be employed under an employment contract or registered in the daily workers register.

Description of Risk

Notwithstanding the presence of a robust normative framework that, in theory, should safeguard workers, casual labour is a common phenomenon in Romania. As a result of various factors, including a short harvesting period, small harvesting areas, employees' dissatisfaction, taxes and fees, the length of employment is very short in the forestry sector. To avoid complications, many employees prefer not to contract workers with employment contract.

The finding is based on the authors experience from the field. It has not been possible to identify written sources to provide evidence on the magnitude of the problem, which is why a specified risk is concluded based on a precautionary approach.

Risk Conclusion

This indicator has been evaluated as specified risk. Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.

1.12.6. Risk designation and specification

Specified risk

1.12.7. Control measures and verifiers

- Ensure the existence of employment contracts.
- Interview staff in order to confirm that working conditions meet legal requirements.
- Interview Public Authorities in charge of monitoring working conditions to ensure that those conditions meet applicable legal requirements.
- Interview representatives from relevant Labour Unions to confirm that working conditions meet applicable legal requirements and that there are no substantial conflicts.

THIRD PARTIES' RIGHTS

1.13 Customary rights

Legislation covering customary rights relevant to forest harvesting activities including requirements covering sharing of benefits and indigenous rights.

1.13.1. Applicable laws and regulations

There are no legislation covering customary rights in Romania.

1.13.2. Legal authority

N/A

1.13.3. Legally required documents or records

N/A

1.13.4. Sources of information

N/A

1.13.5. Risk determination

N/A

1.13.6. Risk designation and specification

N/A

1.13.7. Control measures and verifiers

N/A

1.14. Free prior and informed consent

Legislation covering "free prior and informed consent" in connection with transfer of forest management rights and customary rights to the organisation in charge of the harvesting operation.

1.14.1. Applicable laws and regulations

There is no legislation covering free, prior and informed consent.

1.14.2. Legal authority

N/A

1.14.3. Legally required documents or records

N/A

1.14.4. Sources of information

N/A

1.14.5. Risk determination

N/A

1.14.6. Risk designation and specification

N/A

1.14.7. Control measures and verifiers

N/A

1.15. Indigenous/traditional peoples' rights

Legislation that regulates the rights of indigenous/traditional people as far as it's related to forestry activities. Possible aspects to consider are land tenure, right to use certain forest related resources or practice traditional activities, which may involve forest lands.

1.15.1. Applicable laws and regulations

N/A

1.15.2. Legal authority

N/A

1.15.3. Legally required documents or records

N/A

1.15.4. Sources of information

N/A

1.15.5. Risk determination

N/A

1.15.6. Risk designation and specification

N/A

1.15.7. Control measures and verifiers

N/A

TRADE AND TRANSPORT

1.16. Classification of species, quantities, qualities

Legislation regulating how harvested material is classified in terms of species, volumes and qualities in connection with trade and transport. Incorrect classification of harvested material is a well-known method to reduce/avoid payment of legality prescribed taxes and fees. Risk relates to material traded under illegal false statements of species, quantities or qualities. This could cover cases where this type of false classification is done to avoid payment of royalties or taxes or where trade bans on product types or species are implemented locally, nationally or internationally. This is mainly an issue in countries with high levels of corruption (CPI<50).

1.16.1. Applicable laws and regulations

- Government decision no. 387/2016 Rules on the origin, trade and transport of timber (Art. 11, line 4a) [HOTĂRÂRE nr. 387 din 27 mai 2016 privind stabilirea unei măsuri temporare pentru aplicarea Normelor referitoare la proveniența, circulația și comercializarea materialelor lemnoase, la regimul spațiilor de depozitare a materialelor lemnoase și al instalațiilor de prelucrat lemn rotund, precum și a unor măsuri de aplicare a Regulamentului (UE) nr. 995/2010 al Parlamentului European și al Consiliului din 20 octombrie 2010 de stabilire a obligațiilor ce revin operatorilor care introduc pe piață lemn și produse din lemn, aprobate prin Hotărârea Guvernului nr. 470/2014]. Available at: <http://legislatie.just.ro/Public/DetaliiDocument/178912>
- Government decision no 470/2014 regarding the approval of the technical regulations for origin, transport and trade of wood, [HOTĂRÂRE nr. 470 din 4 iunie 2014 pentru aprobarea Normelor referitoare la proveniența, circulația și comercializarea materialelor lemnoase, la regimul spațiilor de depozitare a materialelor lemnoase și al instalațiilor de prelucrat lemn rotund, precum și a unor măsuri de aplicare a Regulamentului (UE) nr. 995/2010 al Parlamentului European și al Consiliului din 20 octombrie 2010 de stabilire a obligațiilor ce revin operatorilor care introduc pe piață lemn și produse din lemn]. Available at: <http://legislatie.just.ro/Public/DetaliiDocument/158885>
- Ministerial Order 1464/13.07.2016 for the modification of the Methodology regarding the organisation and functioning of SUMAL, user obligation, as well as the structure and method for transmitting standardised informations, approved by Ministerial Order 837/2014 [OM 1464/2016 pentru completarea Metodologiei privind organizarea și funcționarea SUMAL, obligațiile utilizatorilor SUMAL, precum și structura și modalitatea de transmitere a informațiilor standardizate, aprobată prin Ordinul ministrului delegat pentru ape, păduri și piscicultură nr. 837/2014]. Available at: <http://legislatie.just.ro/Public/DetaliiDocument/180190>

1.16.2. Legal authority

- Ministry of Environment, Water and Forests
- Forest Guards
- Traffic police

1.16.3. Legally required documents or records

- Delivery documents
- Online Wood tracking code
- SUMAL agent records

1.16.4. Sources of information

Government sources

- Ministry of Environment, Water and Forests (2016). *Press release on the public debate of the Catalogue of virgin and quasi-virgin forests in Romania and the launch of the "Forest inspector" application*. [online]. Available at: http://www.mmediu.ro/app/webroot/uploads/files/2016-07-19/Comunicat_discurs_conferinta_Paduri.pdf
- Ministry of Environment and Climate Change (2014). *Directorate for Policies, Strategies and Projects in Forestry, communicate no. 90171/04.11.2014 for approval of the methods to estimate the volume of wood for harvesting*. [online]. Department for Water, Forests and Fisheries. Available at: <http://apepaduri.gov.ro/wp-content/uploads/2014/09/Metode-dend.-12.11.2014-draft-M.GH..pdf>

Non-Government sources

- Agerpres.ro (2016). *Prime minister Ciolos asks for the improvement of the Forest Inspector application, 30.07.2016*. [online]. Available at: <http://www.agerpres.ro/politica/2016/07/30/ciolos-am-cerut-ministerului-mediului-ca-impreuna-cu-mai-sa-gaseasca-solutii-pentru-imbunatatirea-aplicatiei-inspectorul-padurii--23-19-46>
- Giurgiu, V., Drăghiciu, D., Editura Ceres, (2004). *Modele matematico-auxologice și tabele de producție pentru arboreta*.
- Forestnews.ro (2016). *The necessary firewood is approx. 13-14 millions cubic meters*. [online]. Lucia Varga, Vice-president of the Commission for Environment and Ecological Balance, Chamber of Deputies. (necesarul de lemn de foc este de circa 13-14 milioane de metri cubi). Available at: <http://www.forestnews.ro/anchete/1683-bucuresti/4123-lucia-varga-necesarul-de-lemn-de-foc-este-de-circa-13-14-milioane-de-metri-cubi>

1.16.5. Risk determination

Overview of Legal Requirements

The classification of quantities by species and quality is done first in the inventory of marked tress, and then in the drafting of the VED and the registration of the harvesting site in the SUMAL application.

In the case of stumpage sale, the whole volume of the marked trees becomes a maximum threshold for all the delivery documents issued for that site. In the case of timber sold from the primary platform, the logs are sorted and sold (by auction or by negotiation) in lots or firewood stere.

After harvest, the timber collected at the landing site (primary platform) is transported to log yards or processing facilities accompanied by a delivery document which states the

origin of the timber (FME, FMU, compartment), the assortments (roundwood, firewood) and the volume. Logs with a diameter of less than 20 cm at the small end of less are marked with rectangular stamps and recorded piece-by-piece in the delivery document (length, diameter at half length, species, volume). Logs less than 20 cm at the small end are recorded by the number of similar pieces and by their dimensions. Firewood that is split and arranged in stere is recorded only as stere and its equivalent in cubic metres (using a conversion factor of approximately 0.6).

Description of Risk

Certain risks can arise, in the case of stumpage sale, from the differences between the estimated volume and the more accurate measurements at the primary platforms. Any underestimates in the diameter or heights measured in the field can be transmitted in terms of volumes throughout the chain of custody, especially if the WOOD Tracking system is not applied properly. Also, there is no cross-check of assortments in the SUMAL system, which can lead to overestimated volumes of industrial wood, which is also affected by the overestimation of conversion factors. As there is no cross-checking between the volumes of assortments in the VED and the volumes from the harvesting results, there is a certain risk that firewood harvested from a certain harvesting site is sold on the local market (with very short transportation distances and low risk of being identified by transport control) and instead of it, the extra volume of harvested wood would be introduced in the custody chain as industrial wood. This wood is most likely to originate in underestimates of the timber measurements, both in the stand or in the primary platform.

This possibility can be sustained also by the estimations of the National Institute for Statistics, which evaluated that the wood volume needed for heating in Romania is around 13 mil. m³, out of which approx. 5 mil. m³ is considered to be harvested illegally. This correlates also with the results of the National Forest Inventory that states that 8.8 million cubic meters have been cut illegally each year between 2010 and 2013 (cited as justification for Gov. decision no. 51/2016).

This Government decision should improve (due to very high penalties involved) the situation forest harvesting correctitude. However, given the very recent application date of this decision, its effects have to be evaluated in future.

Risk Conclusion

This indicator has been evaluated as specified risk. Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.

1.16.6. Risk designation and specification

Specified risk

1.16.7. Control measures and verifiers

- Cross-verify volume of assortments from the VED and delivery documents.

1.17. Trade and transport

All required trading permits shall exist as well as legally required transport document which accompany transport of wood from forest operation. Risk relates to the issuing of documents permitting the removal of timber from the harvesting site (e.g., legally required removal passes, waybills, timber tags, etc.). In countries with high levels of corruption, these documents are often falsified or obtained by using bribery. In cases of illegal logging, transport documents from sites other than the actual harvesting site are often provided as a fake proof of legality with the harvested material.

1.17.1. Applicable laws and regulations

- Law no. 171/2010 regarding the identification and punishment of silvicultural contraventions, (Chapter 7, Art. 25). Available at: <http://legislatie.just.ro/Public/DetaliiDocument/120856>
- Forest Code, Chapter IX (law 46/2008 republished in 2015). Available at: <http://silvagroup.ro/legislatie/codul-silvic-legea-nr-462008-pagina-3/>
- Government decision 470/2014 for approval of Regulations referring to the origin, transport and selling of wood products, the regime of wood storage spaces and wood processing facilities, as well as the approval of some measures for applying UE Rules 995/2010 that establish the obligations of operators who introduce wood products onto the market. Available at: <http://legislatie.just.ro/Public/DetaliiDocument/158885>
- Order 1346/2011 <http://legislatie.just.ro/Public/DetaliiDocument/128644> for approval of the Ministry of Environment Rules regarding the shape and use of special marking devices, as well as the means of marking trees and timber (Art.16). Available at: <http://legislatie.just.ro/Public/DetaliiDocumentAfis/160811>
- Emergency Ordinance 43/1997 on the roads regime (Art. 41, Annex 2). Available at: <http://legislatie.just.ro/Public/DetaliiDocument/11269>
- Ministerial Order 1464/13.07.2016 for the modification of the Methodology regarding the organisation and functioning of SUMAL, user obligation, as well as the structure and method for transmitting standardised information, approved by Ministerial Order 837/2014 [OM 1464/2016 pentru completarea Metodologiei privind organizarea și funcționarea SUMAL, obligațiile utilizatorilor SUMAL, precum și structura și modalitatea de transmitere a informațiilor standardizate, aprobată prin Ordinul ministrului delegat pentru ape, păduri și piscicultură nr. 837/2014]. Available at: <http://legislatie.just.ro/Public/DetaliiDocument/180190>

1.17.2. Legal authority

- Ministry of Environment, Water and Forests
- Forest guards
- Traffic police

1.17.3. Legally required documents or records

- Delivery documents
- SUMAL records
- WOOD TRACKING application online code generation

1.17.4. Sources of information

Government sources

- Ministry of Environment, Water and Forests (2016). *Press release on the public debate of the Catalogue of virgin and quasi-virgin forests in Romania and the launch of the "Forest Inspector" application*. [online] Available at: http://www.mmediu.ro/app/webroot/uploads/files/2016-07-19/Comunicat_discurs_conferinta_Paduri.pdf

Non-Government sources

- Agerpres.ro (2016). Prime minister Ciolos asks for the improvement of the Forest Inspector application (30.07.2016). [online] Available at: <http://www.agerpres.ro/politica/2016/07/30/ciolos-am-cerut-ministerului-mediului-ca-impreuna-cu-mai-sa-gaseasca-solutii-pentru-imbunatatirea-aplicatiei-inspectorul-padurii--23-19-46>

1.17.5. Risk determination

Overview of Legal Requirements

Any shipment of wood from the forest or from any other place of trading has to be included in SUMAL (System for Wood Tracing) and its mobile component, WOOD Tracking. Furthermore, any log larger than 20 cm in diameter at the small end must be marked for transport with a rectangular stamp and with a unique identification code. The shipment documents, completed both on paper and online, must include the total volume of wood, assortments, origin, destination, vehicle registration number, date and time of loading and duration of validity, the online code from the WOOD Tracking application. In case of a lack of mobile internet reception, an offline code is generated and this must be replaced by the online version as soon as the vehicle arrives in an area with reception. Shipment documents can only be issued for volumes within the estimate by the APV.

After processing, the resultant products (i.e. lumber) are reintroduced into the system using conversion factors for volume that are declared by the wood processing firm.

On the road, the vehicles transporting wood can be verified by others using the "Forest Radar", which also provides the option of calling the emergency number in order to report a vehicle's registration number and location if necessary.

Over the last year (2016), there have been efforts to provide for confiscation of all equipment used in illegal harvesting activities and transport in legislation.

In addition, in July 2016, the Ministry of Environment, Water and Forests launched the "Forest Inspector" application, downloadable on any Android device, which allows the onsite verification of wood transports by any person (Ministry of Environment, Water and Forests press release).

Description of Risk

The main risk associated with transportation is related to the weaknesses of the WOOD Tracking system, which allows for delivery documents to be filled in during a period of 12 hours from the loading of the truck. There are cases of truck drivers generating the online code only when they encounter a traffic control vehicle. In response to a complaint made

online after the verification of a transport of wood, the prime minister agreed that the online WOOD Tracking system still has problems such as the ability to transport several similar loads with the same delivery documents and online code (Agerpres). In other cases, there have been short distance transports of firewood from the forest to the beneficiary which are never recorded in the system. This type of wood is very unlikely to be inserted into the custody chain, but could represent a way that the quantities of industrial wood that is sold with papers, within the limits set by SUMAL, could be illicitly increased (see also 1.16).

Another risk associated with the illegal transport of wood is related to the overloading of trucks, above the thresholds imposed by the national road regime (Emergency Ordinance 43/1997).

Risk Conclusion

This indicator has been evaluated as specified risk. Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.

1.17.6. Risk designation and specification

Specified risk

1.17.7. Control measures and verifiers

- Verify shipment documents (delivery documents) and codes regarding wood origin and destination (Provided through Wood Tracking System). Delivery document shall confirm that data and time corresponding to the logging area and landing areas
- total volume from delivery notes and assortments specified on delivery notes (round wood, logs, fuel wood, fire wood) and compare with the inventory document to ensure assortment are correct.

1.18. Offshore trading and transfer pricing

Legislation regulating offshore trading. Offshore trading with related companies placed in tax havens combined with artificial transfer prices is a well-known way to avoid payment of legally prescribed taxes and fees to the country of harvest and considered as an important generator of funds that can be used for payment of bribery and black money to the forest operation and personnel involved in the harvesting operation. Many countries have established legislation covering transfer pricing and offshore trading. It should be noted that only transfer pricing and offshore trading as far as it is legally prohibited in the country, can be included here. Risk relates to situations when products are sold out of the country for prices that are significantly lower than market value and then sold to the next link in the supply chain for market prices, which is often a clear indicator of tax laundry. Commonly, the products are not physically transferred to the trading company.

1.18.1. Applicable laws and regulations

- Law 227/8 September 2015 Fiscal Code Article 11 (2). Available at: <http://legislatie.just.ro/Public/DetaliuDocument/171282>
- Order no. 222/2008, regarding the content of the transfer pricing documentation file. Available at: <http://legislatie.just.ro/Public/DetaliuDocument/89707>

1.18.2. Legal authority

- Ministry of Public Finances; National Agency for Fiscal Administration (ANAF)

1.18.3. Legally required documents or records

N/A

1.18.4. Sources of information

Government sources

N/A

Non-Government sources

- Deloitte (2015). *Global Transfer Pricing Country Guide*. [online]. Available at: <https://www2.deloitte.com/content/dam/Deloitte/global/Documents/Tax/dttl-tax-transfer-pricing-country-guide-2015.pdf>
- PWC (2015). *International Transfer Pricing*. [online]. Available at: <http://www.pwc.com/gx/en/international-transfer-pricing/assets/itp-2015-2016-final.pdf>
- contabilul.manager.ro (2015) *Vesti de la ANAF intr-un nou raport referitor la preturile de transfer, in contextul inspectiilor fiscale care au vizat verificarea acestora*. [online]. Available at: <http://contabilul.manager.ro/a/15749/vesti-de-la-anaf-intr-un-nou-raport-referitor-la-preturile-de-transfer-in-contextul-inspectiilor-fiscale-care-au-vizat-verificarea-acestora.html>

1.18.5. Risk determination

Overview of Legal Requirements

Romania is not a member of the OECD, but has implemented legislation covering transfer-pricing that has adopted the OECD guidelines and Arm's Length Principle. Transactions between related parties shall be carried out at market prices. Related parties are defined as:

- An individual (or legal entity) is a related party with a legal entity provided that they hold, directly or indirectly, including the shareholding of related entities, a minimum of 25% of the number/value of shares or voting rights in the legal entity, or it effectively controls the legal entity (unfortunately the legislation is silent on the meaning of 'effective control').
- Two individuals are related parties provided that they are spouses or relatives up to the third degree. (PWC 2015, p. 869)

Description of Risk

From non-government sources, it seems that the amount of tax for the first half of 2015 is much higher than in the past years (approximately 130% higher than the additional tax obligations set in 2012), which demonstrates the viability of reorganisation and the effective business performance of ANAF, including transfer pricing issues, that have occurred in 2013. Thus, the risk is considered low.

Risk Conclusion

This indicator has been evaluated as low risk. Identified laws are upheld. Cases where law/regulations are violated are efficiently followed up via preventive actions taken by the authorities and/or by the relevant entities.

1.18.6. Risk designation and specification

Low risk

1.18.7. Control measures and verifiers

N/A

1.19. Custom regulations

Custom legislation covering areas such as export/import licenses, product classification (codes, quantities, qualities and species).

1.19.1. Applicable laws and regulations

- Regulation (EU) 952/2013 laying down the Union Customs Code. Available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32013R0952&from=en>

1.19.2. Legal authority

- General Customs Directorate

1.19.3. Legally required documents or records

- Export/import licences

1.19.4. Sources of information

Government sources

- customs.ro (N.Y.). [online]. Available at: <https://www.customs.ro/>
- Annual report of the General Customs Directorate. [online]. Available at: https://www.customs.ro/assets/pdf/info-publice/1127_Raport%20de%20performanta%20pentru%20anul%202012.pdf

Non-Government sources

- cursdeguvernare.ro (2015). *Proiect – Documente / Guvernul condiționează exportul de lemn de licența Statisticii. Măsurile valabile doar în 2015.* [online]. Available at: <http://cursdeguvernare.ro/proiect-documente-guvernul-conditioneaza-exportul-de-lemn-de-licenta-statisticii-masuri-valabile-doar-in-2015.html>
- transportator.info (2014). *CMR transport document and invoice.* [online]. Available at: <http://cmr.transportator.info/document-cmr-si-factura-de-transport/>

1.19.5. Risk determination

Overview of Legal Requirements

Required custom transport documentation must indicate:

- shipping date;
- information on the sender, the recipient and the carrier;
- description of shipped goods (type and quality); and
- quantity.

Two copies of each transport document shall be issued; one is to be kept by the sender, the other by the recipient. Retention time shall be no less than 10 years.

Description of Risk

From the Annual Report of the General Customs Directorate (Annex 13) no wood-based product was involved in violation of law or withholding of goods. As there is no export tax to be paid or log export bans, the incentives for violation of custom regulations are low, and there are no other indications timber going through customs illegally.

Risk Conclusion

This indicator has been evaluated as low risk. Identified laws are upheld. Cases where law/regulations are violated are efficiently followed up via preventive actions taken by the authorities and/or by the relevant entities.

1.19.6. Risk designation and specification

Low risk

1.19.7. Control measures and verifiers

N/A

1.20. CITES

CITES permits (the Convention on International Trade in Endangered Species of Wild Fauna and Flora, also known as the Washington Convention). Note that the indicator relates to legislation existing for the area under assessment (and not e.g., the area from which CITES species are imported).

1.20.1. Applicable laws and regulations

- Order no. 255/2007 measures to implement EU regulations on trade in wild fauna and flora. Available at: <http://legislatie.just.ro/Public/DetaliiDocument/80930>
- Law 69/1994 Convention on International Trade in Endangered Species of Wild Fauna and Flora Endangered adopted in Washington on March 3, 1973. Available at: <http://legislatie.just.ro/Public/DetaliiDocument/4273> and: http://www.speciesplus.net/#/taxon_concepts?taxonomy=cites_eu&geo_entities_ids=76&geo_entity_scope=cites&page=1

1.20.2. Legal authority

- National Agency for Environmental Protection

1.20.3. Legally required documents or records

- CITES permits

1.20.4. Sources of information

Government sources

- Ec.europa.eu (2007). *Regulations on trade Flora and fauna species in the European Union*. [online]. Available at:
http://ec.europa.eu/environment/cites/pdf/trade_regulations/KH7707262ROC.pdf

Non-Government sources

- Speciesplus.net (N.Y.). Checklist of CITES Species for Romania. [online]. Available at:
http://www.speciesplus.net/#/taxon_concepts?taxonomy=cites_eu&geo_entities_ids=76&geo_entity_scope=cites&page=1

1.20.5. Risk determination

Overview of Legal Requirements

Romania has ratified the CITES Convention through Law no. 69/1994. The Management Authority in charge of implementing the Convention is the Ministry of Environment, Waters and Forests/National Agency for Environmental Protection.

Description of Risk

According to UNEP-WCMC and the CITES Species+ database (2016), no tree species included in the CITES Appendices is found in Romania.

Risk Conclusion

This indicator has been evaluated as low risk. Identified laws are upheld. Cases where law/regulations are violated are efficiently followed up via preventive actions taken by the authorities and/or by the relevant entities.

1.20.6. Risk designation and specification

Low risk

1.20.7. Control measures and verifiers

N/A

1.21. Legislation requiring due diligence/due care procedures

Legislation covering due diligence/due care procedures, including e.g. due diligence/due care systems, declaration obligations, and /or the keeping of trade related documents, legislation establishing procedures to prevent trade in illegally harvested timber and products derived from such timber, etc.

1.21.1. Applicable laws and regulations

- Regulation (EU) 995/2010 obligations of operators who place timber and timber products on the market. Available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2010:295:0023:0034:EN:PDF>
- Regulation (EU) 607/2012 detailed rules concerning the due diligence system and the frequency and nature of the checks on monitoring organisations. Available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2012:177:0016:0018:EN:PDF>, http://aepaduri.gov.ro/wp-content/uploads/2014/08/R-607_2012-de-punere-in-aplicare-a-EUTR.pdf
- Regulation (EU) 363/2012 on the procedural rules for the recognition and withdrawal of recognition of monitoring organisations. Available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2012:115:0012:0016:EN:PDF>, http://aepaduri.gov.ro/wp-content/uploads/2014/08/Regulament-delegat-nr.-363_2012_norme-de-procedur%C4%83-organiza%C8%9Bii-de-monitorizare.pdf
- Regulation (EU) 2173/2005 on the establishment of a FLEGT licensing scheme for imports of timber into the European Community. Available at: http://aepaduri.gov.ro/wp-content/uploads/2014/08/Regulament-2173_2005-licen%C5%A3e-FLEGT.pdf, http://aepaduri.gov.ro/wp-content/uploads/2014/08/R-1024_2008-aplicare-FLEGT-rom.pdf
- Practice Guide for operators to proper implementation of EUTR Regulation. Available at: http://www.mmediu.ro/app/webroot/uploads/files/Ghid_DDS.pdf
- Order no. 819/2015 Methodology regarding exercise of control provided for in art. 2 of Government Decision no. 668/2011 regarding the designation of competent authority for applying Regulation (EU) no. 995/2010 of the European Parliament. Available at: <http://legislatie.just.ro/Public/DetaliiDocument/168405>
- Government Ordinance no. 51/2016 establishing and sanctioning contraventions in forestry. Available at: <http://legislatie.just.ro/Public/DetaliiDocument/181818>

1.21.2. Legal authority

- Ministry of Environment, Waters and Forests/Department of Forests

1.21.3. Legally required documents or records

- Documents required according to articles 4.2 and 6 of Regulation (EU) 995/2010 (EUTR), documents required according to article 3, Commission Implementing Regulation (EU) 607/2012

1.21.4. Sources of information

Government sources

- eur-lex.europa.eu (2016). *Report from the commission to the European parliament and the council*. [online] Available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52016DC0074&from=EN>
- ec.europa.eu (2016) *First two years show progress, but more effort needed from Member States and private sector*. [online] And: *State of implementation of EU*

Timber Regulation in 28 Member States. EU Timber Regulation. Available at: http://ec.europa.eu/environment/forests/eutr_report.htm, <http://ec.europa.eu/environment/forests/pdf/EUTR%20implementation%20scoreboard.pdf>

Non-Government sources

- forestlegality.org (2016) *European Commission evaluates EU Timber Regulation implementation: finds progress but needs more effort*. [online]. Available at: <http://www.forestlegality.org/blog/european-commission-evaluates-eu-timber-regulation-implementation-finds-progress-needs-more>

1.21.5. Risk determination

Overview of Legal Requirements

The competent authority designated is the Ministry of Environment, Water and Forests. According to the Governmental Decision (HG) n°688/2012, within the ministry there are two responsible bodies for EUTR implementation: The Environmental Guard and Forest Guard - entitled to exercise the control of operators and traders for the following timber products codes: 4401, 4403, 4406 and 4407. At forest level (logging companies, forest managers), the DDS is checked by the Forest Guard and the traders are checked by the Environmental Guard.

The EUTR implementation is regulated by: (i) Governmental Decisions that are establishing the responsibilities of the CA and the penalties regime: HG n°470/2014 - HG n°787/2014, OUG 51/2016 and HG n°170/2015; (ii) Ministerial decision (OM) n°819/2015 for establishing the rules, procedures and methodologies for checking operators, traders and for organizations monitoring.

Operators required to implement DDS requirements are: logging companies, if the timber is sold as standing stock; the forest owner/manager, if the timber is sold as an assortment by the forest owner/manager, and traders that import from outside the EU market. For logging companies, the DDS is precondition to participate in auction.

Placing on the market of illegally harvested timber is sanctioned with 15.000-20.000 RON, and confiscation of wood and vehicles involved;

Administrative fines apply to operators who do not implement and/or use a due diligence system (DDS) or refuse to cooperate with the competent authority. The fines range from 8,000 to 15,000 RON. Documents needed for trading can be suspended for up to 12 months in this case. A grace-period of 45 days applies to operators when first checked;

Administrative fines also apply to operators who do not properly use a DDS (including not maintaining and regularly evaluating a DDS) and range from 5,000 to 8,000 lei. Documents needed to trade can be suspended for up to 90 days in case of repeat offence;

Criminal fines, much stricter than the fines for breaches of the EUTR, exist for illegal logging in domestic forests under Romanian forestry and environmental law and penalties include imprisonment up to 7 years in aggravated cases.

Administrative fines also apply to monitoring organizations that are not fulfilling their obligation according to article 8, align (1) of the Regulation and a range from 8,000 to 15,000 lei;

Description of risk

Romania has approved the Government Emergency Ordinance no. 51/2016 in which sanctions are imposed for the failure to observe the DDS. It has taken effect on the 20st of October 2016. This Ordinance imposed very high fines for Romania for the failure to observe the DDS system.

Although Romania has made progress on the transparency of the forestry system (see the online Forest inspector - <http://rt1.forestier.ro>), as the legislation has only recently been introduced it is not possible to evaluate whether this is properly implemented and enforced, which is why the indicator is considered as specified risk based on a precautionary approach.

Risk Conclusion

This indicator has been evaluated as specified risk. Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.

1.21.6. Risk designation and specification

Specified risk

1.21.7. Control measures and verifiers

1. Can the material be tracked back to the entity placing it on the market - the Operator?
 - If the timber is sold as standing stock to a logging company, the logging company will be the operator.
 - If the timber is sold as an assortment by the forest owner/manager, then the forest owner/manager will be the operator.

If no: do not buy.

If yes: go to 2

2. Can the operator document that a Due Diligence System is in place in accordance with the EU Timber Regulation No. 995/2010 (EUTR)? Operators placing for the first time on the internal market for distribution or use in the course of a commercial activity any products listed in the Annex to Regulation (EU) No. 995/2010 (EUTR) should present:

- documents required according to Articles 4.2 and 6 of the Regulation (EU) No. 995/2010;
- documents required according to Article 3, Commission Implementing Regulation (EU) No. 607/2012,

- register of information concerning the operator's supply as provided for in Article 6.1 a) of Regulation (EU) No. 995/2010 and documentation of application of risk mitigation procedures.

If no: don't buy

If yes: risk mitigated for this point.

Annex I. Timber source types

The table **Timber Source Types in Romania** identifies the different types of sources of timber it is possible to find in the country of origin.

'Timber Source Type' is a term used to describe the different legal sources of timber in a country, in order to allow a more detailed specification of risk. The Timber Source Type is used to clarify:

- which forest types timber can be sourced from legally;
- what the legal requirements are for each source type, and
- if there are risks related to certain source types and not others.

Timber Source Type can be defined by several different characteristics. It may be based on the actual type of forest (e.g. plantation or natural), or other attributes of forests such as ownership, management regime or legal land classification. In this context Timber Source Types are defined and discerned using the following characteristics:

- Forest type** - refers to the type of forest such as plantation or natural tropical forest, or mixed temperate forest. Often the clearest differentiation is between natural forest and plantations.
- Spatial scale (Region/Area)** - relating to meaningful divisions of a nation. However, in some cases the assessment may be carried out at national level where that allows the risk assessment to establish risk at a meaningful level. E.g. a small country with uniform legislation and a uniform level of risk in all areas of the country, as national level assessment may be enough. In case there are significant differences in the legal framework or legality risks between different types of ownership (e.g. public forest, private forest, industrial forest), between different type of forest (e.g. natural forest and plantations) and/or between different geographical regions the conformance risk evaluation shall specify these differences when specifying the risk and apply the appropriate control measures.
- Legal land/forest classification** - refers to the legal classification of land. Focus is on land from where timber can be sourced, and this could entail a number of different legal categories such as e.g. permanent production forest, farm land, protected areas, etc.
- Ownership** - Ownership of land may differ in a country and could be state, private, communal etc. Ownership of land obviously have impacts on how land can be managed and controlled.
- Management regime** - Independently of the ownership of the land, the management of forest resources may differ between areas. Management may also be differentiated as private, state, communal or other relevant type.
- License type** - Licenses may be issued to different entities with a range of underlying requirements for the licensee. A license might be issued on a limited area, limited period of time and have other restrictions and obligations. Examples could be a concession license, harvest permit, community forestry permit etc.

TIMBER SOURCE TYPES IN ROMANIA						
Forest type	Region/ Area	Legal Land Classification	Ownership	Management regime	License / Permit Type	Description of source type
Natural forest	National level	Strictly protected forests	Public	State/National Forest Administration	Exceptional permit from the Commission for Natural Monuments Preservation (Romanian Academy)	NTFP/timber sourcing is forbidden
				Municipal/private or state Forest districts		
			Private	Individual private owners/private or state Forest districts		
				Local communities/private or state Forest districts		
		Conservatio n forests	Public	State/National Forest Administration	Harvesting certificate Harvesting permit Volume Estimation Document (APV) Environmental permit Approval from the National Park Administration (if applicable) Approval from the Natura 2000 site custodian (if applicable)	Natural conservation forests (harvest restricted to max. 10% of volume/decade)
				Municipal/private or state Forest districts		
			Private	Individual private owners/Private or state Forest districts		
				Local communities/private or state Forest districts		
			Public	State/National Forest Administration	Harvesting certificate	

		Production forests		Municipal/private or state Forest districts	Harvesting permit Volume Estimation Document (APV)	Natural production forests
			Private	Individual private owners/private or state Forest districts	Environmental permit	
				Local communities/private or state Forest districts	Approval from the National Park Administration (if applicable) Approval from the Natura 2000 site Custodian (if applicable)	
Semi-natural forest	National level	Strictly protected forests	Public	State/National Forest Administration Municipal/private or state Forest districts	Exceptional permit from the Commission for Natural Monuments Preservation (Romanian Academy)	NTPF / timber sourcing is forbidden
			Private	Individual private owners/private or state Forest districts Local communities/private or state Forest districts		
		Conservation forests	Public	State/National Forest Administration Municipal/private or state Forest districts	Harvesting certificate Harvesting permit Volume Estimation Document (APV)	Natural conservation forests (harvest restricted to max. 10% of volume/decade)
			Private	Individual private owners/private or state Forest districts Local communities/private or state Forest districts	Environmental permit Approval from the National Park Administration (if applicable) Approval from the Natura 2000 site custodian (if applicable)	

		Production forests	Public	State/National Forest Administration	Harvesting certificate	Natural production forests
				Municipal/private or state Forest districts	Harvesting permit Volume Estimation Document (APV)	
			Private	Individual private owners/private or state Forest districts	Environmental permit	
				Local communities/private or state Forest districts	Approval from the National Park Administration (if applicable) Approval from the Natura 2000 site Custodian (if applicable)	
Plantation	National level	Production forests	Private	Individual management	Harvesting permit Volume Estimation Document (APV)	Private plantations for biomass
Forest farmland (outside forest fund)	National level	Forested pastures (canopy cover <0.4)	Public/Private	Municipality/private	Volume estimation document (APV)	Natural forested pastures



This risk assessment has been developed with funding from FSC™. FSC is not otherwise associated with the project Supporting Legal Timber Trade. For risk assessment conducted according to the FSC-STD-40-005, ONLY entries (or information) that have been formally reviewed and approved by FSC and are marked as such (highlighted) can be considered conclusive and may be used by FSC candidate or certified companies in risk assessments and will meet the FSC standards without further verification. You can see the countries with approved risk assessment in the FSC document: FSC-PRO-60-002b V2-0 EN List of FSC-approved Controlled Wood documents 2015-11-04.

About

Supporting Legal Timber Trade

Supporting Legal Timber Trade is a joint project run by NEPCon with the aim of supporting timber-related companies in Europe with knowledge, tools and training in the requirements of the EU Timber Regulation. Knowing your timber's origin is not only good for the forests, but good for business. The joint project is funded by the LIFE programme of the European Union and UK aid from the UK government.



NEPCon (Nature Economy and People Connected) is an international, non-profit organisation that builds commitment and capacity for mainstreaming sustainability. Together with our partners, we foster solutions for safeguarding our natural resources and protecting our climate.

NEPCon | www.nepcon.org | info@nepcon.org
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