

LEGAL REGULATION OF UNACCOUNTED FORESTS AND WOODY VEGETATION NOT INCLUDED IN THE FOREST FUND

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Leipzig, November 2025



About the Project “Sustainable Forestry Implementation” (SFI)

The project "Promotion of multifunctional sustainable forest management planning and implementation in Ukraine" (SFI) is a project established within the framework of the Bilateral Cooperation Programme (BCP) of the Federal Ministry of Agriculture, Food and Regional Identity (BMLEH) with the Ministry of Economy, Environment and Agriculture of Ukraine (MEEA). It is a continuation of activities started in the forest sector within the German-Ukrainian Agriculture Policy Dialogue (APD) forestry component.

The Project is implemented based on an agreement between GFA Group, the general authorised executor of BMEL, and the State Forest Resources Agency of Ukraine (SFRA) since October 2021. On behalf of the GFA Group, the executing agencies - IAK Agrar Consulting GmbH and Unique land use GmbH and are in charge of the implementation jointly with the SFRA.

The project aims to support sustainable forest management in Ukraine and has a working focus on the results in the Forest Policy and National Forest Inventory.

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Introduction

New EU Forest Strategy for 2030, which calls for planting three billion trees across the EU, sets ambitious goals for increasing forest cover, restoring degraded land, and improving the resilience of forest ecosystems to climate change. The Strategy sets specific targets for forest cover in regions where forest cover remains low, focusing on both new plantings and natural reforestation of areas that have lost their agricultural or industrial function. One of the key objectives of the Strategy is to create significant areas of forest across the EU, particularly on degraded, low-productivity, or abandoned land.

For Ukraine, which seeks to integrate into the European space, these tasks are of paramount importance. Against the backdrop of large-scale challenges related to climate change, military action, and soil degradation, forest ecosystems are a strategic asset. According to the 2024 public report of the head of the State Forest Resources Agency, Ukraine has significant potential to increase forest cover, in particular through the natural restoration of tree vegetation on abandoned agricultural land. Until recently, experts estimated the area of such self-forested territories to be over 500,000 hectares in the Polissya region alone.¹

However, in April 2024, as part of the SFI project, the results of the forest inventory of Ukraine based on remote sensing data were presented, providing new information on the state of forest resources. Based on the results of processing the inventory materials and surveys conducted from 2022 to 2024, the State Forest Resources Agency established 1,905,607 hectares of state and communal property lands that, according to remote sensing data, showed signs of self-afforestation.² This area, which is almost equal to the Rivne region (2 million 100 thousand hectares), can be called huge. I would like to note that we are talking mainly about communal and state-owned land.

No accurate data on the area of self-forested private land was obtained during the study. At the same time, the vast majority of agricultural land in Ukraine is privately owned (according to 2025 data, 31.1 million hectares belonged to 25 million citizens). Therefore, given the large number of abandoned and low-productive lands in the Polissya region, it can be

¹ UNACCOUNTED FORESTS. Analytical note. *Website: Ecology. Law. People.* URL: <https://epl.org.ua/eco-analytics/neoblikovani-lisy-ukrayiny-analitychna-zapyska/>

² Public report of the Head of the State Forest Resources Agency for 2024. *Website: forest.gov.ua.* <https://forest.gov.ua/agentstvo/komunikaciyi-z-gromadskistyju/publichni-zviti-derzhlisagentstva/publichnyi-zvit-holovy-derzhavnoho-ahentstva-lisovykh-resursiv-ukrainy-za-2024-rik>

assumed that the area of self-forested lands in private ownership can also be estimated at a million hectares.

Such a significant amount of land covered with woody vegetation makes it a significant reserve for expanding the country's forest fund. This decision lays the foundation for the preservation of natural ecosystems that have emerged as a result of the withdrawal from circulation and reservation of arable land. Due to military actions, Ukraine has already lost and continues to lose forests, the restoration of which will take decades and the demining of which is financially unprofitable. According to the Accounting Chamber, by the end of 2022, 3 million hectares of forests will have been affected by the war.³ According to the State Forest Resources Agency, as of November 2025, 1 million hectares of forests remain temporarily occupied, up to 500,000 hectares are mined or contaminated with explosive objects, and another 100,000 hectares are in the combat zone.⁴ Including forested agricultural land in the forest fund will save hundreds of millions in public funds, as creating and maintaining one hectare of forest costs tens of thousands of hryvnia.

At the same time, the practice of applying Ukraine's land and forestry legislation to self-forested areas, which are essentially unaccounted-for forests, has revealed a number of significant legal problems related to determining the status of such lands and the possibilities for transferring them to the forest fund. In particular, this concerns the imperfection of legal mechanisms for legalizing tree vegetation in forests, the lack of regulation of procedures for the alienation of such plots and the possibility of their felling, as well as the practical absence of incentives for landowners who could voluntarily transfer such plots to the forest fund. Ultimately, this creates risks for the sustainable management of these territories.

In view of this, it is extremely important to develop an effective legal mechanism for legalizing self-forested lands as forests, which would combine environmental expediency, socio-economic justification, and compliance with European approaches. The experience of Germany and most EU countries shows that there are clear procedures for classifying such lands, financial incentives for owners, and legislative guarantees for the preservation of newly formed forests. For Ukraine, the implementation of such approaches is not only a step towards fulfilling international obligations in the field of

³ How much forest has been damaged by the war and how quickly it can be restored. *Website: texty.org.ua.*
<https://texty.org.ua/fragments/109583/skilky-lisiv-postrazhdalo-vid-vijny-i-yak-shvydko-yih-mozhna-vidnovyty/>

⁴ Ukraine at COP30: details of the panel discussion on Ukrainian forests. *Website: kmu.gov.ua.*
URL: <https://www.kmu.gov.ua/news/ukraina-na-sor30-detali-panelnoi-diskusii-pro-ukrainski-lisy>

environmental protection, but also a means of achieving climate neutrality and increasing the forest cover of the territory.

This work is devoted to analyzing the legal status of tree vegetation that is not part of the forest fund, in particular, self-seeded forests on agricultural land, field protection forest strips, unaccounted forest areas, and other lands covered with tree vegetation. It examines the problems of current regulatory and legal regulation, judicial practice, the positions of regulatory and law enforcement agencies, as well as the experience of European Union countries in this area.

Section 1. Tree vegetation on agricultural land and unregistered forests on other lands: regulatory framework

1.1 Legal definition of the terms "forest," "forestry land," "forest fund," and their relationship

Before analyzing the legal regime of woody vegetation on agricultural land and the status of unaccounted forests on other categories of land, it is necessary to clarify what exactly the legislator means by the term "forest." The definition of this term is of fundamental importance, as it determines whether a particular plot of land is classified as part of the forest fund, whether the provisions of the Forest Code of Ukraine apply, and the scope of application of forest, land, and environmental legislation. That is why a clear legal understanding of forest is the starting point for distinguishing between forest and non-forest plantations and determining the legal regime for tree vegetation outside the forest fund.

The concept of "forest" in scientific circles remains a subject of scientific debate. There is disagreement not only about its definition — whether geographical, biological, or legal — but also about which characteristics are decisive. There is no single approach in domestic and foreign legal science to what exactly should be considered a forest. Some researchers consider a forest to be only a collection of trees and shrubs, i.e., they equate it with a certain type of vegetation cover. They believe that forest legislation should apply only to relations related to these types of plants. Other scientists, on the contrary, interpret the concept of "forest" more broadly - as a complex natural system that includes not only trees and shrubs, but also all other vegetation growing in forest areas, as well as related natural elements.

The "Compilation of Forestry Terms Related to Forests, Forest Lands, Forestry, and Forest Restoration" (Rome, 1998), prepared by the Secretariat of the Third Conference of the Parties to the UN Framework Convention on Climate Change, contains over two thousand different definitions of the concept of "forest." In total, there are 200 definitions of the concept of "forest" in the regulatory documents of different countries. All of them reflect different approaches to its understanding and can be grouped into three main categories.

The first category includes definitions in which a forest is considered primarily as an area officially classified as a forest fund, regardless of the actual state of vegetation on it. The second category includes definitions that treat a forest as a natural ecosystem or part of a landscape dominated by tree vegetation. Finally, the third category covers definitions in which the main criterion for recognizing an area as a forest is its use for forestry.

According to domestic forest legislation (Article 1 of the Forest Code of Ukraine), a forest is defined as *"a type of natural complex (ecosystem) in which tree and shrub vegetation is combined with corresponding soils, herbaceous vegetation, fauna,*

microorganisms, and other natural components that are interconnected in their development, influence each other and the surrounding natural environment. All forests on the territory of Ukraine, regardless of the category of land on which they grow according to their main purpose and regardless of ownership rights, constitute the forest fund of Ukraine and are protected by the state."

In the context of analyzing different approaches to interpreting this definition, the domestic definition of the concept of "forest" essentially combines all three approaches.

The classification of tree plantations as forests in Ukraine is carried out in accordance with the procedure established by land legislation. The regulatory and legal basis for this process is provided by the provisions of the Forest Code of Ukraine, the Land Code of Ukraine, as well as subordinate acts, in particular the Procedure for maintaining the state forest cadastre and forest accounting, approved by Resolution of the Cabinet of Ministers of Ukraine No. 848 of June 20, 2007 (as amended in 2023), the Procedure for conducting a national forest inventory, approved by Resolution of the Cabinet of Ministers of Ukraine No. 392 of April 21, 2021, and the Procedure for conducting forest management, approved by Resolution of the Cabinet of Ministers of Ukraine No. 112 of February 2, 2023. The definition of forest as a type of land is provided in Annex 4, "List of land types according to the Classification of Land Types," "Procedure for maintaining the State Land Cadastre," approved by Resolution of the Cabinet of Ministers of Ukraine No.1051 of October 17, 2012.

In the field of forestry, the basis for classifying a particular area with tree vegetation as forest is forest management materials — special works during which the boundaries of forest areas, their area, species composition, age of plantations, and other characteristics are determined. The results of forest management serve as the official basis for entering information about the forest into the state forest cadastre. An area may also be classified as forest based on the results of land management work, including land inventory, if it is covered with tree and shrub species that form a forest ecosystem. In particular, the aforementioned Annex 4 to Resolution No. 1051 of the Cabinet of Ministers of Ukraine dated October 17, 2012 defines as a subgroup of land use category 005.00 "Forests and other forest-covered lands" land plots covered with forest vegetation, including forest land plots covered with trees and shrubs, with a fullness of plantings in young stands of 0.4 and above, and in other age groups – from 0.3 and above (i.e., tree crowns occupy at least 40 percent (30 percent) of the area of the plot).

Under domestic law, a land plot falls under the definition of "thing" and "property" (Articles 179, 190 of the Civil Code), and Article 181 of the said Code classifies a plot as immovable property. According to Articles 79 and 79¹ of the Land Code of Ukraine, a land plot is a part of the earth's surface with established boundaries, a specific location, and a legal regime. It is the object of ownership and other

property rights, as well as the object of civil legal relations. As immovable property, a land plot may be the subject of civil law transactions — sale and purchase, lease, pledge, inheritance, etc.

A land plot is considered to be formed from the moment its boundaries are established in kind (on the ground), its area and intended use are determined, and a cadastral number is assigned. From that moment on, it is subject to state registration in the State Land Cadastre and is considered an independent object of property rights. Without such registration, the land plot does not legally exist as a separate object of civil turnover.

Within the framework of this legal approach, forests and woody vegetation are not independent objects of property rights, but are considered to be appurtenances of the land plot on which they are located within the meaning of civil law (Article 186 of the Civil Code of Ukraine) and, at the same time, an integral part of its natural composition. The right of ownership or use of a forest under land legislation is inseparable from the right to a land plot and is exercised within the legal regime of that land. The owner or user of a land plot owns, uses, and disposes of the forest as an integral part of the plot, complying with the requirements of forest, land, and environmental legislation. The legal status of a forest is not determined separately, but through the legal regime of the category of land on which it grows. At the same time, Ukrainian forest legislation uses the concept of a "forest plot" as a plot of the Ukrainian forest fund with defined boundaries, allocated in accordance with the Forest Code for forest management and the use of forest resources without removing it from the land user or land owner. Forest plots are transferred for special use to forest users without taking away land plots.

According to Article 19 of the Land Code of Ukraine, all land in the country is divided into nine categories. One of them is land for forestry purposes. According to Articles 55 and 57 of the Land Code of Ukraine, this category includes land plots covered with forest vegetation, as well as plots without forest vegetation that are provided and used for forestry purposes. Forestry land is the main category for forests, which are subject to a special legal regime of use and protection for forestry purposes. However, forests as natural objects and as a separate type of land can also be located on land of other categories, where the norms of the relevant legal regime for such land apply.

State ownership of forests prevails in Ukraine. According to Article 57 of the Land Code of Ukraine, forestry land is provided exclusively for permanent use by specialized state or municipal forestry enterprises for forestry purposes. In particular, according to a public report by the Head of the State Forest Resources Agency, as of 2021, the area of forestry land in Ukraine was 10.4 million hectares (17% of the

country's territory), of which 9.6 million hectares were covered by forests⁵. Of the total area of this category of land, 1.2 million hectares belong to communal property. These lands are provided by decision of their owners - executive authorities (regional state administrations) or local self-government bodies (regional, village, settlement, and city councils).

According to Part 2 of Article 3 of the Land Code of Ukraine, land relations arising from the use of forests are regulated by this code, as well as by regulatory and legal acts on forests, if they do not contradict the Land Code. Given the established priority, the dominant role in regulating land and forest relations (regarding their use) actually belongs to land legislation.

The forest fund, as a concept, defines the scope of forests covered by the Forest Code of Ukraine, ensuring the application of a special legal regime for the protection, use, reproduction, and accounting of forests. This definition in Ukrainian legislation has historical origins in Soviet law. In the USSR, it was first introduced to systematize and centrally manage forests, which were considered state property. The definition of "forest fund" was subsequently retained in Ukrainian legislation in order to clearly distinguish between land covered by forest vegetation and land intended for forestry from other categories of land and land use. In particular, according to Article 4 of the Forest Code of Ukraine, the forest fund includes forest areas, linear protective plantations with an area of 0.1 hectares, and other forest-covered lands. Non-forest lands for forestry, not being forest areas, are not included in the forest fund.

In addition, the concept of the forest fund allows forest lands to be distinguished from other areas with tree vegetation, such as field protection plantations, trees on agricultural lands or within settlements, to which land, environmental protection or settlement improvement legislation applies.

1.2 Woody vegetation not included in the forest fund and unaccounted forests: assessment as self-forested lands

The previous section emphasized that Ukrainian forest legislation clearly distinguishes between the concepts of forest and other woody vegetation. Therefore, not all woody vegetation is "forest" in the legal sense. Article 4 of the Forest Code of Ukraine states that the forest fund does not include green spaces within settlements (parks, gardens, squares, boulevards, etc.) that are not classified as forests in accordance with the established procedure; individual trees and groups of trees, shrubs on agricultural land, household, summer cottage, and

⁵ Public report of the Head of the State Forest Resources Agency of Ukraine for 2021. *Website: forest.gov.ua*.
URL: <https://forest.gov.ua/storage/app/sites/8/%D0%BF%D1%83%D0%B1%D0%BB%D1%96%D1%87%D0%BD%D1%96%20%D0%B7%D0%B2%D1%96%D1%82%D0%B8/publicniy-zvit-za-2021.pdf>

garden plots; self-forested areas within settlements with trees whose average age is less than 30 years, and self-forested areas within protected areas ...

The Land Code of Ukraine (Article 55) does not classify the aforementioned green spaces within settlements as forestry land. They are not forests. Individual trees and groups of trees, shrubs on agricultural land, household plots, summer cottages, and garden plots have the same status. Forest strips on agricultural land are not included in forestry land. Also, from March 2023, a separate law excludes forest plantations within land plots 30-50 meters wide along the state border of Ukraine from forestry land, transferred to the permanent use of military units of the State Border Service of Ukraine for the construction, arrangement, and maintenance of engineering and technical and fortification structures.

Below is a study of each type of land/planting in the context of belonging to self-forested areas:

1.2.1 Green plantations within settlements that are not classified as forests in accordance with the established procedure.

The legal basis for the protection of green spaces is defined by the Law of Ukraine "On the Improvement of Settlements." Article 28 of this law is devoted to the protection and maintenance of green spaces. The law obliges local authorities to keep records of green spaces and ensure their maintenance. It also regulates the procedure for removing green spaces, which is only possible with the permission of the executive bodies of local councils. Requirements for the maintenance, pruning, removal, and restoration of green spaces are set out in the "Rules for the Maintenance of Green Spaces in Settlements of Ukraine," approved by Order No.105 of the Ministry of Housing and Communal Services of Ukraine dated April 10, 2006. Due to the relatively small area of green spaces, they do not play a significant role in the afforestation of the country. When conducting a national forest inventory using remote sensing, green spaces in cities and large villages and settlements could potentially be covered as self-afforested.

It is important to note that urban forests, as defined in Order No. 105 of the Ministry of Housing and Communal Services dated 10 April 2006, may be included within the boundaries of settlements. In general, the largest number of forests within cities is observed in large regional centres with historically formed forest parks (Kyiv, Lviv, Kharkiv). Most of these forests are classified as forestry land, granted for use to municipal or state forestry enterprises and subject to the relevant legal regime for forests.

1.2.2 Linear protective plantings

In accordance with Resolution No. 733 of the Cabinet of Ministers of Ukraine dated May 16, 2007, which approved the "Procedure for dividing forests into categories and allocating specially protected forest areas," forest areas that perform the function of protecting the environment and engineering objects from the negative

impact of natural and anthropogenic factors, including linear forest plantations (field protection forest strips, state forest belts, etc.), are classified as protective forests from the negative impact of natural and anthropogenic factors, including linear forest plantations (field protection forest strips, state protection forest strips, forest strips along built-up areas of settlements).

The government resolution singles out linear protective plantations as a separate group, defining them as artificially created linear plantations designed to protect agricultural land from the negative impact of natural and anthropogenic factors. (Resolution of the Cabinet of Ministers of Ukraine No. 650 of July 22, 2020).

In accordance with the requirements of the Forest Code of Ukraine, linear protective plantations are classified as forests and included in the state forest fund (Articles 4 and 5), but do not belong to forestry lands (Article 6 of the Forest Code of Ukraine, Articles 22, 37-1, and 55 of the Land Code of Ukraine). At the same time, forest plantations, if transferred for permanent use to state and municipal forestry enterprises for forestry management, can potentially be classified in this category.

In Ukraine, before the start of Russia's full-scale invasion, the area of forest shelterbelts (FSS) was estimated at approximately 350,000 hectares and about 90,000 hectares of water-regulating forest belts⁶. However, there has been no accurate data on their number since 1996⁷. Forest belts are present in every region, but most of them are located in the south: in the Odesa, Kherson, Mykolaiv, and Zaporizhzhia regions, and partly in the central part of the country. According to data from monitoring by the State Geocadastre in 2016, catastrophic rates of their destruction have been recorded⁸.

The aggressor's invasion on February 24, 2022, exacerbated the scale of the disaster. In the areas of ongoing hostilities in the south and east of the country, forest belts are widely used to set up military positions, camouflage, and create obstacles to the enemy's advance, leading to their mass destruction.

In addition to the problem of mass destruction of forest belts due to the war, there are challenges related to the extremely insufficient level of state registration of property rights to them, the failure to conduct an inventory, and the general weakness of methodological and financial support for local communities in this matter. According to a survey conducted in 2020 by the All-Ukrainian Association of Rural, Settlement, and City Councils with the support of the FAO, 95.5% of

⁶ Viter N. Tkachuk O. ASSESSMENT OF THE CURRENT AGROBIOLOGICAL STATE OF THE PROTECTIVE FOREST BELTS OF THE RIGHT-BANK FOREST-STEPPE. *Scientific reports of the National University of Life and Environmental Sciences of Ukraine*. 2023. No. 1/107. URL: https://scireports.com.ua/web/uploads/pdf/Vol.%2020,%20No.%201,%202024_11.pdf

⁷ Godovanyuk A. PROTECTIVE FOREST BELTS HAVE BEEN IN NEED OF PROTECTION FOR MORE THAN TWENTY YEARS. LEGAL ASPECTS OF PROTECTION. LEGAL ASPECTS OF THE PROBLEM. *Current policy issues*. 2013. Issue 49 URL: http://app.nuoua.od.ua/archive/49_2013/30.pdf

⁸ In Ukraine, field protection forest strips are being destroyed at an alarming rate - results of monitoring by the State Geocadastre. *Website: kmu.gov.ua*. 2016. URL: <https://www.kmu.gov.ua/news/249188848?=-print>

amalgamated territorial communities have forest belts on their territory. At the same time, only 14% of them know their number and area, and 91.7% of communities do not have technical documentation for these land plots. Ownership rights to forest belts are registered in only 7.1% of communities, while in 53.8% their legal status is undefined. More than half of the communities surveyed (56.3%) have no experience in caring for and maintaining forest belts⁹.

Until 2018, protective forest plantations could be classified as forestry land. In particular, in some regions, protective forest belts were partially transferred to forestry enterprises for permanent use in the 2000s. Land and forestry legislation allowed for the granting of permanent use rights exclusively to forestry enterprises. In 2018, a number of amendments were made to the Land Code of Ukraine (Part 7 of Article 37-1), according to which land plots under field protection forest strips that border agricultural land are no longer classified as forestry land as of January 1, 2019. After the transfer of state-owned land outside populated areas to local communities, land under field protection forest strips finally became communal property. Until April 2025, field protection forest strips bordering agricultural land could be transferred for permanent use to state-owned or communal specialized enterprises. Currently, such transfer is possible only for lease to individuals and legal entities. In the latter case, the lease agreement must include conditions for the maintenance and preservation of such strips and ensuring that they perform their agroforestry functions.

In accordance with Part 7 of Article 37-1 of the Land Code of Ukraine, land plots under field protection forest strips that border agricultural land shall be leased to individuals and legal entities with the mandatory inclusion in the land lease agreement of conditions for the maintenance and preservation of such strips and ensuring that they perform agroforestry improvement functions. Please note that this provision does not apply to all forest strips, but only to those that border agricultural land. Therefore, this provision of the law does not apply to forest strips located along roads, rivers, non-agricultural land, or in the middle of agricultural land.

According to the Law of Ukraine "On Land Reclamation" (Articles 3, 8 of the Law of Ukraine "On Land Reclamation"), one of the types of land reclamation is agroforestry land reclamation. To this end, the formation of such multifunctional forest reclamation systems is envisaged, as: 1) area (anti-erosion) protective forest plantations, 2) linear (field protection) forest plantations that provide protection against wind and water erosion. Thus, in addition to their protective and ecological functions, forest belts are an integral part of the land reclamation system.

⁹CREATION OF FIELD PROTECTION BELTS. FAO Farmer School. Website: ukrinform.ua. URL: <https://www.ukrinform.ua/rubric-presshall/3121879-skola-fermera-fao-stvorennia-polezahisnih-lisovih-smug.html>

Domestic FAO experts note that maintaining forest belts is a resource-intensive task that requires significant financial and human efforts¹⁰. The main costs are associated with regular maintenance, such as cleaning up debris, pest control, and maintaining healthy vegetation. Communities also face serious problems, including insufficient funding, which critically affects the provision of sustainable investments. Another important challenge is the uncertain legal status of forest belts, as in many cases their legal status is not clearly defined in cadastral plans, which causes conflicts regarding their use and maintenance. In addition, logistical difficulties, such as the lack of necessary equipment and personnel, complicate the effective management of forest belts. All these factors together create difficulties in planning and implementing measures to maintain forest belts in proper condition.

Land legislation actually provides for two models for maintaining field protection strips after they have been inventoried and formed. The first scheme is the transfer of formed forest belt land plots for permanent use to state-owned enterprises on the basis of permanent use (protective forest plantations of JSC Ukrzaliznytsia, or on the basis of the Law of Ukraine "On Motorways" transferred to divisions of the State Agency for the Restoration and Development of Infrastructure of Ukraine, or to municipal and state forestry enterprises). The second scheme is the transfer for lease (with the conditions of performing agroforestry functions) to individuals and legal entities located in their land areas. The third management model is the disposal of forest belts by farms, which they use or even maintain as owners.

When identifying self-forested lands in 2023-2025, there were numerous cases where field protection forest strips were mistakenly classified as such. The reason for this was that the strips remained unformed land plots without cadastral boundaries. Remote sensing of the Earth did not allow to reliably determine their artificial origin and distinguish them from natural self-afforestation. The relevant discrepancies were already identified during field surveys of the plots or by the local councils themselves when considering submissions from forestry authorities.

For the reasons given above, field protection forest strips cannot be considered self-forested lands, because, firstly, they already have the legal status of forest, and secondly, they are artificially created plantations, laid out to protect mainly agricultural land. Unlike self-forested areas, where tree vegetation has grown naturally, forest strips are man-made. At the same time, the vast majority of forest strips currently have the status of unregistered forests - without formal boundaries, legal registration of ownership rights, and proper accounting. Therefore, an important task was and remains their preservation, state registration, and inclusion

¹⁰CREATION OF BUFFER STRIPS. FAO Farmer School. Website: ukrinform.ua. URL: <https://www.ukrinform.ua/rubric-presshall/3121879-skola-fermera-fao-stvorennia-polezahisnih-lisovih-smug.html>

in the cadastral accounting system, which will ensure legal protection and care for these ecologically important plantations.

1.2.3 Individual trees and groups of trees on agricultural land or household plots

According to official data, as of 2021, the total area of agricultural land in Ukraine was approximately 42.7 million hectares, which accounted for about 71% of the country's total territory.¹¹ As of 2019, about 73% of Ukraine's agricultural land was privately owned (31 million hectares), of which 27.7 million hectares were private shares.¹² About 4.5 million hectares of agricultural land are currently under occupation, in the combat zone. In addition, Ukraine ranks third in the world in terms of arable land area. Between 2022 and 2024, the area of arable land in Ukraine decreased from 24.9 million hectares in 2021 to 21.4 million hectares in 2024.¹³

Part 1 of Article 22 of the Land Code of Ukraine defines the concept of agricultural land. This includes land provided for agricultural production, agricultural research and educational activities, etc.

The Land Code of Ukraine provides for the division of agricultural land by type of land and type of intended use.

Thus, agricultural land is divided into the following types of land:

- a) **agricultural land** (arable land, perennial plantations, hayfields, pastures, and fallow land);
- b) non-agricultural land (farm roads and passages, **field protection forest strips** and other protective plantings, except for those classified as other categories of land, land under farm buildings and yards, land under the infrastructure of wholesale markets for agricultural products, land under temporary conservation, etc.).

The classification of land by type is provided in Annex 4 to the Procedure for Maintaining the State Land Cadastre, approved by Resolution of the Cabinet of Ministers of Ukraine No. 1051 dated October 17, 2012 — "Classification of Land Types (CLT)". **Hayfields and pastures belong to** agricultural land and may include areas evenly covered with woody and shrubby vegetation up to 20% of the plot. In addition, temporary natural vegetation, including individual trees or shrubs, is permitted on fallow land, but not the formation of forest plantations. If woody

¹¹LAND RELATIONS DEVELOPMENT STRATEGY. *White Paper*. 2021. URL: <https://kse.ua/wp-content/uploads/2021/05/Land-strategy.pdf>

¹²LAND MARKET AND VALUATION. *Website: land.gov.ua*. URL: <https://land.gov.ua/category/napriamy-diialnosti/rynok-ta-otsinka-zemel/>

¹³4.5 MILLION HECTARES OF ARABLE LAND REMAIN UNDER OCCUPATION AS OF 2024. *Website: superagronom.com*. 2025. URL: <https://superagronom.com/news/20270-45-mln-ga-ornih-zemel-zalishayutsya-pid-okupatsiyeyu-stanom-na-2024-rik>

vegetation becomes predominant, it is no longer fallow land, but land with another type of use.

Ukraine ranks third in the world in terms of land cultivation: arable land occupies more than half of the country's territory (56.8% in 2018), while the average in Europe is 30-35%. According to expert estimates, the area of degraded soils exceeds 6.0-6.5 million hectares, which is a colossal figure. According to most experts, excessive cultivation of Ukrainian lands has led and continues to lead to soil degradation, loss of natural ecosystems, and reduced sustainability of agricultural landscapes. An effective way to solve this problem would be to reforest unsuitable, degraded, low-yield, and technologically polluted lands, as well as to leave self-seeded forests that have grown on such areas. According to some experts, converting such areas from intensive agricultural use to forest ecosystems will reduce the level of plowing to an ecologically safe 44%.

This problem has been recognized at the legislative level. The Law of Ukraine "On the Basic Principles (Strategy) of the State Environmental Policy of Ukraine for the Period until 2030" recognizes that the current use of Ukraine's land resources does not meet the requirements of rational nature management. The state of Ukraine's land resources is close to critical.

At the same time, domestic legislation contains a direct provision on the priority of agricultural land. Article 23 of the Land Code of Ukraine establishes that land suitable for agricultural needs (except for self-forested land) must be provided primarily for the following purposes: 1) agriculture; 2) forestry; 3) creation of protected natural areas and objects. Data on the classification of land into the relevant category is determined based on data from the state land cadastre.

As we can see, self-afforested lands are excluded from the regulatory requirement of priority provision for agricultural needs, since they have lost the properties inherent in agricultural land. As already mentioned, these plots are usually former arable land, pastures, or abandoned land on which natural succession has taken place: overgrowth with trees and shrubs without human intervention. As a result, they are no longer suitable for effective agricultural use without significant costs for clearing and restoring soil fertility. Therefore, the legislator excluded self-afforested lands from the list of those that should be provided primarily for agriculture, with the aim of preserving natural ecosystems and rational use of land resources.

Land that is not used for agricultural production can potentially be afforested. This category includes tree and shrub vegetation, both artificially created (planted) by humans and growing naturally (self-seeded) in a given area. In the latter case, forest ecosystems already exist on agricultural land, but legally they do not have the status of forests, which makes it impossible to properly protect them and manage forestry.

Thus, there are a number of significant gaps and uncertainties in the legal regulation of the use of trees and shrubs located outside populated areas and not

classified as forest resources. This situation greatly complicates the proper use, conservation, and protection of these plant life objects. The only law that defines their legal status remains the Law of Ukraine "On the Plant World" of 09.04.1999, which is outdated, including in the context of the legal status of self-forested lands, as it does not take into account current environmental processes and changes in land use that are taking place in practice. Adopted back in 1999, the law is based on the idea of vegetation primarily as an object of protection within a certain type of land. At the same time, it does not regulate the status of lands with signs of self-afforestation as separate land types, the specifics of classifying self-afforested lands as forests, property rights for harvested timber as a result of logging, etc.

Based on the provisions of Article 5 of the Law of Ukraine "On the Plant World," the relevant tree vegetation outside populated areas that is not classified as forest is an object of the plant world. According to the general provisions of the law, this object is classified as a resource of local importance.

The transfer of such plots for lease for "use for their intended purpose" creates a number of legal and environmental problems. First, tenants often plow or clear self-sown tree stands to restore agricultural use, which leads to the destruction of natural vegetation and loss of biodiversity. On the other hand, the law does not contain direct prohibitions for local communities to preserve self-sown trees on agricultural land. Moreover, the law explicitly requires owners to use the land for its intended purpose (Article 91 of the Land Code of Ukraine), which provides for the removal of perennial self-sown plants. Secondly, the legislation does not provide a clear mechanism for classifying and accounting for such land — whether it remains arable land or should be transferred to forestry land. This creates legal uncertainty and significant risks of violating land and environmental legislation.

1.2.4 Unclaimed land shares

One type of agricultural land is unclaimed shares. These are land shares that previously belonged to collective farms or state farms and were intended to be distributed among citizens, but in fact no one received them or the owner did not register the right of ownership or use. In other words, such land is formally divided but not actually transferred to specific individuals. Although most unclaimed shares are designated as agricultural land, in particular arable land, they can formally belong to any category of land - forest, pasture, hayfields, or other categories.

According to Article 13 of the Law of Ukraine "On the Procedure for Allocating Land Plots to Owners of Land Shares (land plot) in Kind (on the Ground)" (hereinafter referred to as Law No. 899) an undistributed land plot is a land plot which, in accordance with the land management project for the organization of the territory of land shares (land plots), was included in the area of land subject to distribution, but in accordance with the protocol on the distribution of land plots was not allocated to the owner of the land share (parcel). An unclaimed land share is a land share (land plot) for which no document certifying the right to it has

been received , or a land share (parcel) for which the right has been certified in accordance with the law, but which has not been allocated in kind (on the ground). State registration of the right to lease unclaimed (undistributed) land plots is carried out without prior registration of ownership rights. Such plots may be leased by decision of the local council, but the agreement shall be terminated after registration of ownership rights. If the owner or his heirs do not register the ownership right by January 1, 2028, the land will be transferred to communal ownership.

As of 2024, there were officially more than 104,400 unclaimed land shares (shares) in Ukraine. The total area of such land, as of 2024, according to the Deputy Minister of Agrarian Policy, is estimated at 400,000 hectares.¹⁴ The largest number of unclaimed shares is concentrated in the Zhytomyr, Ivano-Frankivsk, Chernihiv, Khmelnytskyi, and Vinnytsia regions. For example, in the Zhytomyr region, the area of such shares is over 85,000 hectares.¹⁵ .

Leasing such plots for commercial agricultural production creates a number of legal and environmental problems. In practice, a significant part of such plots (in the Chernihiv, Zhytomyr, and Kyiv regions) has not been used for agricultural production for a long time. Therefore, they have become overgrown with trees and shrubs that have formed naturally, which reduces their agricultural value and complicates their use in agriculture. As a result, these lands are effectively acquiring the characteristics of natural forest stands, although they remain agricultural land on paper. On the other hand, tenants often plow or clear natural tree stands to restore agricultural use.

Most of the areas mentioned have a high percentage of forest cover and favorable forest growing conditions. Based on this, and taking into account the assignment of cadastral numbers to consolidated plots when they are leased, it is reasonable to assume that a certain percentage of self-forested land consists of unclaimed shares. They are managed by local authorities, which usually lease them out, so it is reasonable to assume that a certain percentage of self-forested land consists of unclaimed shares. Due to the actual absence of owners of such land, it is impossible to allocate self-forested plots among them in accordance with the procedure established by law. The aforementioned lands are managed by local self-government bodies , usually leasing them even in their forested state. In particular, this may indicate falsification of land management materials, when land managers deliberately distorted data on the natural afforestation of such lands.

¹⁴Konovalov S. THE DEADLINE FOR REGISTRATION OF UNRECLAIMED LAND SHARES IS PLANNED TO BE EXTENDED UNTIL THE END OF MARTIAL LAW. *Website: zemfond.net*. 2024 URL: <https://www.zemfond.net/post/strok-oformlennia-nevytrebuvanykh-zemelnykh-paiv-planuiut-prodovzhyty-do-kintsia-voiennoho-stanu>

¹⁵ 391,000 HECTARES OF UNREQUIRED SHARES IN UKRAINE: WHERE ARE THE MOST? *Website: growhow.in.ua*. 2018 URL: <https://www.growhow.in.ua/v-ukrayini-391-000-ga-nevytrebuvanyh-payiv-de-najbilshe/>

In general, unclaimed land shares cannot be considered a promising category of land for classification as self-forested areas. Despite the fact that some of these lands are actually overgrown with trees and shrubs, they remain privately owned with an undefined legal status, which complicates their inclusion in the forest fund or classification as self-forested areas. As of 2025, the deadline for registering rights to such plots has been extended to January 1, 2028. Therefore, the use of these plots continues to be regulated without registration of ownership rights or transfer to communal ownership, so they cannot be stably classified as forest land.

1.2.5 Former collective farm forests; unaccounted forests created by forestry enterprises on agricultural land; forestry land in reserve

In the early 1990s, with the collapse of the USSR, Ukraine inherited a significant forest fund, part of which was used by collective farms. Thus, as a result of the reform of collective agricultural enterprises, in accordance with the Decree of the President of Ukraine "On urgent measures to accelerate the reform of the agricultural sector of the economy" dated December 3, 1999, No. 1529/99, 13,279 new economic entities (collective farms, private farms, agricultural cooperatives, etc.) were created on the basis of 10,730 former collective agricultural enterprises.

The legal status of these so-called "collective farm forests" was initially regulated by the Forest Code of the Ukrainian SSR (1979) and then by the Forest Code of Ukraine (1994), which brought significant changes. The 2006 version of the Forest Code of Ukraine finally removed any mention of collective farm forests as a separate type of forest used for forestry. Therefore, the legal fate of forest areas formerly belonging to collective farms is not defined by law, nor is succession established. In essence, "collective farm forests" at that time turned out to be "no man's land."

The area of forests used by newly created agricultural enterprises at that time amounted to 2.8 million hectares, or 26 percent of the country's total forest area. During 2000–2001, depending on the position of regional and district councils, municipal or state enterprises were created, to which forests owned by the state (at that time) were transferred for permanent use (regional municipal enterprises, district municipal enterprises, state agricultural enterprises). Part of the forest areas (310,000 hectares) bordering the forests of state forestry enterprises was transferred to the jurisdiction of the State Forestry Committee of Ukraine.¹⁶ At the same time, some of the forests that were used by former collective agricultural enterprises were not transferred to permanent use at all, as a result of which these forests remained unmanaged.

To date, these "forgotten" forests, despite the existence of outdated forest management documentation, remain within the boundaries of unformed communal property lands, classified as "forests and other forest-covered lands"

¹⁶ Smolyarchuk R. HISTORICAL DEVELOPMENT OF THE LEGAL REGIME OF PEASANT FORESTS IN UKRAINE. *Website: dspace.onua.edu.ua*. 2016. UPL: <https://dspace.onua.edu.ua/items/c68cf3dd-0cf5-4e0c-943b-29fc57357228>

and reserve lands for forestry purposes. In some small forest areas (Poltava, Khmelnytsky, Vinnytsia regions, etc.), cases of loss of forest management materials were recorded. For these reasons, such lands were classified as agricultural lands.

Therefore, a certain part of forested lands, which according to remote sensing data and inventory have an undefined status, probably belong to former collective farm forests that have been left without proper management. Such areas should be considered as potential for restoration of forest use, i.e., for their proper transfer to permanent use by forestry enterprises, with the aim of ensuring the protection, restoration, and sustainable management of these forests.

During the survey of lands with signs of self-afforestation, areas of formed forestry land plots, both state-owned and communal, were also found to be in reserve. Although these lands have official status, which allows them to be freely registered for forestry use, mainly for bureaucratic reasons, such areas remain untransferred to forestry enterprises.

In addition, there is the problem of agricultural land on which forestry enterprises once created new forests. Thus, in 2000-2010, the priority of the State Forestry Committee/State Forest Resources Agency was to create new forests by afforestation on agricultural lands that were considered low-productive or degraded. At the same time, the legislation in force at that time was extremely complicated and bureaucratic for the purposes of transferring land to forestry enterprises, changing the intended use, etc. Before transferring such land, it was usually necessary to prepare documentation on the conservation of such land through afforestation. Even before 2010, forestry enterprises had to pay considerable sums to the budget to compensate for losses in agricultural production. Given the administrative pressure from forestry authorities to fulfill their tasks, subordinate state forestry enterprises carried out afforestation on plots for which the legal documents had not been properly drawn up.

Due to significant legal obstacles, forestry enterprises created protective plantations on most of these lands without proper rights of use. Today, these areas, which are located on communal lands, are also considered unaccounted for. During the conduct of the RS, they were identified as forested areas, so in fact, they primarily belong to the forestry enterprises that created them.

1.3 Transfer of forested agricultural land by local councils for lease

In accordance with Article 134 of the Land Code of Ukraine, state-owned or communal land plots are transferred for use (lease, superficies, emphyteusis) in separate lots on a competitive basis (at land auctions), except in cases established by part two of this article. Therefore, in Ukraine, the lease of state and communal property is carried out on a competitive basis, in accordance with the Law of Ukraine "On Land Lease" and Resolution of the Cabinet of Ministers No. 1013 of September 22, 2021, through land auctions in the "Prozorro.Sales" system.

The auction organizer — a village council or state body — forms a lot indicating the cadastral number, area, intended use, and lease terms, after which the auction information is published on the electronic platform at least 30 days before the auction. Participants register through authorized platforms, pay guarantee and registration fees, and the auction itself takes place online in three rounds of price increases. The winner signs the lease agreement in electronic form, and the results are automatically recorded and published in open access.

In practice, in most western and northern regions of the country, there are cases where agricultural land (by type of land—hayfields, pastures, and even arable land) that is actually overgrown with trees and shrubs and has the characteristics of a forest is leased through the Prozorro.Sales system. This is due to the fact that a significant part of such plots has not been used for its intended purpose for a long time, has not been inventoried, and has not been transferred to the corresponding category of forest land.

As a result, land that is actually self-forested formally remains part of agricultural land. Thus, during the study, a selective study of land plots listed as lots on the Prozorro-Sales website in 2025 was conducted. This revealed isolated cases where agricultural land plots were sold or leased while being forested.

No	Brief description of the lot	Total area, Forest-covered area Shrub vegetation	Lot number	Link
1	2	3	4	5
1.	Transfer for lease of an agricultural land plot with an area of 20 hectares , located at the address: Volyn region, Kovel district, Velytska village council, cadastral number 0722187800:03:003:2150, intended use - 01.01 For commercial agricultural production - pastures	Total – 20 hectares.	LRE001-UA-20250814-16952 14.08.2025 14:18 Landlord – Velytska Village Council, Kovel District, Volyn Region	https://sale.ueex.com.ua/auction/LRE001-UA-20250926-52137
2.	Transfer for lease of a non-agricultural land plot with an area of 24.9977 hectares , located at the address: Zhytomyr	Total area – 24.9977 hectares.	LSE001-UA-20251018-59919 18.10.2025 10:32 Landlord – Berezivska Village	https://sale.ueex.com.ua/auction/LSE001-UA-

No	Brief description of the lot	Total area, Forest-covered area Shrub vegetation	Lot number	Link
1	2	3	4	5
	region, Berezivska village council (outside the village of Bolyarka), cadastral number 1822080900:05:000:1387, intended use - 11.02 Industrial and other land		Council, Zhytomyr District, Zhytomyr Region	20251018-59919
3.	Transfer for lease of an agricultural land plot, with an area of <u>20 hectares</u> , located at the address: Ternopil region, Ternopil district, Naraivska village council (outside the settlement), cadastral number 6120485100:01:001:0059, intended use - 01.01 For commercial agricultural production - pastures	Total - 20 hectares. Under forest vegetation - 20 hectares,	LRE001-UA-20250911-73608 12.09.2025 0:39 Landlord – Naraivska Village Council, Ternopil District, Ternopil Region	https://sale.ueex.com.ua/auction/LRE001-UA-20250911-73608

These facts indicate the existence of risks of legal destruction of tree vegetation on communal property lands, which are leased to land users in accordance with the procedure established by law. As a result, such tenants effectively obtain the right to cut down self-forested areas, since they are formally considered agricultural land rather than forest land. This leads to the loss of naturally regenerated forest stands and reduces the potential for increasing the level of forest cover in the country.

1.4 Self-seeded tree vegetation on state-owned agricultural land (Land Bank project)

On September 17, 2024, the State Property Fund of Ukraine (SPFU) officially presented the Land Bank project. The project provides that state-owned land that was previously unused or was in inefficient permanent use by state agricultural enterprises and the main departments of the State Geocadaastre will be put up for open auction with market lease terms for sublease.

The project is being implemented by the State Property Fund of Ukraine, which has received more than 100,000 hectares of state-owned agricultural land for management. In total, there are more than 800,000 hectares of such land. The direct operator is the State Land Bank LLC, 100% of whose authorized capital is state-owned and is subordinate to the State Property Fund of Ukraine. The company prepares plots for auction, conducts assessments, prepares documentation, and organizes subleasing. Legislatively, the project is based on amendments to the Land, Budget, and Tax Codes, as well as to the Law "On Land Lease," which defined the mechanism for transferring state-owned land for lease or sublease exclusively through open electronic auctions of the Prozorro.Prozori system, for a period of up to 14 years (for arable land) and up to 25 years (for perennial plantations). In 2024, amendments were made to the Budget Code of Ukraine, according to which 90% of the rent for state-owned agricultural land transferred under the project goes to the state budget, and only 10% goes to local budgets.

The amount of rent for such plots is determined through electronic auctions on the Prozorro.Sales platform. According to the law, the starting rent cannot be less than 12% of the normative monetary valuation of the land plot. Depending on the region, the starting rental price ranges from UAH 3,000 to UAH 4,000 per 1 ha per year. However, the actual rent may significantly exceed the starting price, reaching UAH 30,000–40,000 per 1 ha per year, depending on soil quality, location, and demand for land.

A study of the Prozorro-Sales resource regarding the listing of state-owned land plots offered for sublease revealed that the State Land Bank LLC had subleased significant areas of agricultural land covered with forest vegetation.

No	Brief description of the lot	Total area, Forest-covered area Shrub vegetation	Lot number, date and time of auction, lessee, lessor	Link
1	2	3	4	5
1.	Sublease of a state-owned agricultural land plot for a period of 14 years, with an area of 417.4874 ha , located at the address: Zakarpattia region, Uzhhorod district, Kyblyarivska village council, cadastral number	Total – 417 ha. Under forest vegetation – 226 ha, Under shrub vegetation – 162 ha.	LRE001-UA-20251006-54530 12.11.2025 11:20 Lessee – State Geocadas tre Administration in	https://sale.ueex.com.ua/auction/LRE001-UA-20251006-54530

No	Brief description of the lot	Total area, Forest-covered area Shrub vegetation	Lot number, date and time of auction, lessee, lessor	Link
1	2	3	4	5
	2124883000:10:013:002 6, intended use - 01.01 For commercial agricultural production		Zakarpatti a Region, Landlord – State Land Bank LLC	
2.	Sublease of a state- owned agricultural land plot for a period of 14 years, with an area of <u>205.4548</u> <u>hectares</u> , located at the address: Zakarpattia Region, Uzhhorod District, Kyblyarivska Village Council, cadastral number 2124883000:10:019:003 2 , intended use - 01.01 For commercial agricultural production	Total – 205.4548 hectares. Under forest vegetation – 106.85 ha,	LRE001-UA- 20251007- 49278 07.10.2025 11:21 Lessee – State Geocadas tre Administrat ion in Zakarpatti a Region, Lessor – State Land Bank LLC	https://sale.ueex.com.ua/auction/LRE001-UA-20251007-49278
3.	Sublease of a state- owned agricultural land plot with an area of <u>18.7206 hectares</u> , located at Kharkivska , Kharkiv region, Rohanska settlement council, cadastral number 6325158500:01:024:001 1 , intended use - 01.09 For research and educational purposes	Total – 18.7206 hectares. Under forest vegetation - 17.10 ha.	LRE001-UA- 20251017- 50273 17.10.2025 14:11 Lessee – State Geocadas tre Administrat ion in	https://sale.ueex.com.ua/auction/LRE001-UA-20251017-50273

No	Brief description of the lot	Total area, Forest-covered area Shrub vegetation	Lot number, date and time of auction, lessee, lessor	Link
1	2	3	4	5
			Kharkiv region Landlord – State Land Bank LLC	
4.	Sublease of a state-owned agricultural land plot for a period of 14 years, with an area of <u>86.8982 ha</u> , located at the address: Zakarpattia region, Uzhhorod district, Kyblyarivska village council, cadastral number 2124883000:10:015:0059 , intended use - 01.01 For commercial agricultural production	Total – 86.8982 hectares. Under forest vegetation – 48.83 ha.	LRE001-UA-20251007-69747 07.10.2025 11:19 Lessee – State Geocadas tre in Zakarpattia region, Landlord – State Land Bank LLC	https://sale.ueex.com.ua/auction/LRE001-UA-20251007-69747

Thus, it has been established that a certain percentage of agricultural land is state-owned and can be classified as self-forested, which provides potential opportunities for changing its intended use and transferring it to state forestry enterprises for permanent use for forestry purposes.

Section 2. Self-forested areas: regulatory framework

2.1 Legislative changes regarding self-forested lands

The Decree of the President of Ukraine "On Certain Measures for the Conservation and Restoration of Forests" No. 228/2021 of 07.06.2021 launched the implementation of the environmental initiative "Large-scale Afforestation of Ukraine." To this end, the Cabinet of Ministers of Ukraine is instructed to:

- 1) develop within two months and submit to the Verkhovna Rada of Ukraine a draft law on improving the system of protection, conservation, and restoration of forests, including self-seeded ones, stimulating afforestation, and preserving and restoring natural ecosystems;
- 2) develop and approve a state target program "Large-scale Afforestation of Ukraine" aimed at solving problematic issues of forest management, primarily regarding the protection, conservation, use, and restoration of forests;
- 3) take measures in accordance with the established procedure, including: - identification of self-forested and suitable for forest creation land plots of state and communal ownership for their further use to achieve optimal forest cover in Ukraine;

In pursuance of the President's initiative, on June 20, 2022, Law of Ukraine No. 2321-IX "On Amendments to Certain Legislative Acts of Ukraine Regarding Forest Conservation" (hereinafter referred to as Law No. 2321) was adopted, which entered into force on July 10, 2022. The Law supplemented Article 1 of the Forest Code of Ukraine with Part Twelve, introducing the concept of a "self-forested area," which means a land plot of any category (except for forestry, nature reserve, and other nature conservation lands) with an area of more than 0.5 hectares, partially or completely covered with forest vegetation, which has been reforested naturally. Amendments have also been made to the Land Code of Ukraine. Chapter 11 has been supplemented with Article 57-1 "Self-afforested lands," which defines the procedure for classifying land plots as self-afforested.

Thus, according to part two of Article 57-1 of the Land Code of Ukraine, the classification of a privately owned land plot as self-forested is carried out by its owner, and in the case of state-owned and municipally-owned land plots, by the body that manages it. The decision of the executive authority or local self-government body to classify a land plot as self-forested is made upon the submission of the relevant territorial body of the central executive authority that implements state policy in the field of forestry.

Taking into account the provisions of Articles 57-1 and 122 of the Land Code of Ukraine, the classification of a land plot that is communal property of a territorial community as self-forested shall be carried out by village, settlement, and city councils. The decision of the executive authority or local self-government body to classify a land plot as self-forested is made upon the submission of the relevant

territorial body of the central executive authority that implements state policy in the field of forestry.

For the purpose of implementing Article 57-1 of the Land Code of Ukraine, part four of Article 21 of the Law of Ukraine "On the State Land Cadastre" has been supplemented with a fourth paragraph, which stipulates that information about the land plot shall be entered into the State Land Cadastre on the basis of an application by the land plot owner or by decision of the executive authority or local self-government body, which, in accordance with Article 122 of the Land Code of Ukraine, decides on the transfer of state or communal land plots into ownership, - regarding the change of land to self-forested land. The classification of a land plot as self-forested is carried out by entering information about the belonging of all its land to self-forested land into the State Land Cadastre. A land plot is considered a self-forested plot from the date of entry of the specified information into the State Land Cadastre (part three of Article 57-1 of the Land Code of Ukraine).

In the subgroups of the Classification of Land Types -: "005.05. Self-forested lands," it is possible to enter data that includes self-forested areas of any category of land (except for forestry, nature reserve, and other nature conservation areas) with an area of more than 0.5 hectares, covered partially or completely by forest vegetation, which has been forested naturally.

Thus, the legislation defines the procedure for registering land plots in the State Land Cadastre, which, in particular, determines the type of land plots and their intended use.

In addition, Law No. 2321 introduced relevant amendments to Article 184 of the Land Code of Ukraine, according to which the definition of self-forested areas is referred to the content of land management. The identification of self-afforested plots in accordance with part one of Article 36 of the Law of Ukraine "On Land Management" takes place during land surveys in the course of land management. Paragraph "g" of part two of Article 36 of this Law establishes that the information obtained in the course of surveys is used, among other things, for local government bodies to make decisions on the transfer of self-forested areas to state and municipal forestry enterprises for permanent use, etc.

That is, for land plots whose boundaries are not defined in kind (on the ground), the legislator has established a different procedure, according to which the local government body decides on the classification of land plots as self-forested upon the submission of the relevant territorial body of the central executive authority that implements state policy in the field of forestry. The procedure stipulates that for land plots that are not formed as objects of civil rights, the owner of the land plot must prepare technical documentation on land management and submit it to the State Land Cadastre for registration of the relevant plot, its type of land, etc.

According to the provisions of part five of Article 57-1 of the Land Code of Ukraine, the classification of a land plot that has not been formed as an object of civil rights, as well as a land plot that has been formed as an object of civil rights but information about which has not been entered into the State Land Cadastre, to a self-forested plot is carried out in accordance with land management documentation, on the basis of which information about the land plot is entered into the State Land Cadastre for the purpose of registering the relevant plot, its type of land, etc.

In accordance with subparagraph 1 of paragraph 2 of Section II "Final Provisions" of Law No. 2321, the Cabinet of Ministers of Ukraine is instructed to ensure that an inventory of self-forested areas is carried out within six months from the date of entry into force of this Law and to take measures to ensure forest management in such areas. However, the Cabinet of Ministers of Ukraine has not adopted a separate regulatory act to implement this function.

The only regulatory act governing the inventory of land is the "Procedure for Land Inventory" approved by Resolution of the Cabinet of Ministers of Ukraine No. 476 of June 5, 2019. Paragraph 2 of this Procedure stipulates that land inventory is carried out with the aim of establishing the location of land management objects, their boundaries, sizes, legal status, identification of land that is not used, used irrationally or not for its intended purpose, identification and conservation of degraded agricultural land and contaminated land, establishment of quantitative and qualitative characteristics of land necessary for maintaining the State Land Cadastre, identifying and correcting errors in the State Land Cadastre, exercising state control over the use and protection of land, and making appropriate decisions based on this information by executive authorities and local self-government bodies.

According to paragraph 6 of paragraph 1 of the decision of the National Security and Defense Council of Ukraine dated September 29, 2022, enacted by Decree of the President of Ukraine No. 675/2022 dated September 29, 2022, the Cabinet of Ministers of Ukraine, together with local executive authorities and local self-government bodies, is obliged to ensure the unconditional implementation of the tasks provided for by Decree of the President of Ukraine No. 228/2021 of June 7, 2021, regarding the identification of self-forested and forest-suitable land plots of state and communal ownership with a view to their further use to achieve optimal forest cover in Ukraine, classification of land plots as self-forested lands,

2.2 Self-forested areas: conclusions on the application of the law

As of January 1, 2025, according to the State Forest Resources Agency of Ukraine, 241,687 land plots are identified as likely covered with forest vegetation on an area of 1,907,970 hectares. The territorial bodies of the State Forest Resources Agency sent 2,391 applications to the executive authorities and local self-government bodies for 237,876 plots of land likely covered with forest vegetation on an area of

1,897,554 hectares to grant them the status of self-forested. I would like to note that this mainly concerns communal land and, to some extent, state-owned land. The submissions of the territorial bodies of the State Forest Resources Agency concerned private owners. Therefore, these data do not cover privately owned land.¹⁷

The identified area of plots is about 2 million hectares, which is almost equal to the total area of the Rivne region (2.1 million hectares). However, we are talking about the probability of signs of afforestation, so they are not always covered with self-sown forest vegetation and have a different legal status. Therefore, the plots cannot always be considered self-afforested. Therefore, in this context, it is necessary to understand the probability of determining the country's forest cover based on available remote sensing data and field surveys, since the identified areas may be located within the nature reserve fund, for which land management documents have not been prepared, or may be field protection strips, orchards, former collective farm forests, forestry lands classified as reserves, or other unaccounted forests. They may even be old cemeteries, buildings, farms, or waterways that have been spontaneously overgrown with trees. The task of accounting for such lands is further complicated by the fact that large areas of self-seeded forests are unformed. This allows local authorities not to classify the land as forested and not to transfer it to forestry enterprises for use in accordance with the requirements of land and forestry legislation.

According to the State Forest Resources Agency, as of January 2025, regional forestry administrations had received refusals from communities to recognize more than 800,000 hectares of land as self-forested. Requests to classify 3,268 plots with a total area of 54,344 hectares were approved. In reality, 911 self-forested areas with a total area of 10,554 hectares were transferred for use to the State Enterprise "Forests of Ukraine," 66 areas to municipal forestry enterprises, and 85 areas to local self-government bodies.¹⁸

Summarizing the requirements of the legislation and the practice of classifying plots as self-forested, the following characteristics of plots, algorithms for their identification, and further confirmation of their legal status can be identified.

1. Self-forested plots can be formed or unformed. The status of a formed plot, according to Articles 79 and 79-1 of the Land Code of Ukraine, requires already prepared land management documentation, registration in the State Land Cadastre, and registration in the State Register of Real Rights to Immovable Property, etc. An unformed plot requires the mandatory

¹⁷ STENOGRAM OF THE COMMITTEE MEETING 03.03.2025. Website: komekolog.rada.gov.ua. 2025. UPL: <https://komekolog.rada.gov.ua/meeting/stenogr/show/4202.html>

¹⁸ STENOGRAM OF THE COMMITTEE MEETING 03.03.2025. Website: komekolog.rada.gov.ua. 2025. UPL: <https://komekolog.rada.gov.ua/meeting/stenogr/show/4202.html>

preparation of technical land management documentation for the subsequent assignment of a cadastral number, state registration, etc.

2. Self-forested plots are identified both on the basis of individual surveys and during the inventory of the entire area of the village council or its individual identified plots. On behalf of the State Forest Resources Agency, the surveys were mainly carried out by specialists from the State Enterprise "Forests of Ukraine," interregional forestry administrations, and, in part, representatives of communities. The main source of identification was the cartographic data of the software product "Geoinformation System of Forest Resources of Ukraine," developed by the State Enterprise "Ukrderzhlesproekt," including for the identification of self-forested areas. Relevant data on the state of forests was obtained from the RS Inventory, which was implemented as part of the Sustainable Forestry Implementation (SFI) project during 2022-2023 with the support of the German Federal Ministry of Food and Agriculture.
3. The customers of the land management project for individual unformed communal land plots may be permanent forest users - state or communal forestry enterprises that plan to obtain them for use. The customers for technical documentation on land management for the inventory of self-forested communal property plots are the relevant local councils. In this case, payment for the land management work performed is made from local budgets.
4. The minimum area of a self-forested plot must be at least 0.5 hectares. The maximum area is not limited by law.
5. The plot may belong to any category of land (except for forestry land and land of the nature reserve fund). In general, such land belongs to the category of agricultural land.
6. Obviously, the plot must have a predominant vegetation cover of wild trees and shrubs. First of all, this refers to forest species: oak, spruce, pine, fir, ash, larch, hornbeam, linden, birch, walnut, etc. The presence of individual self-sown fruit trees such as pear, apple, cherry, etc. is permitted. There are no restrictions on the growth of invasive species such as white acacia, red oak, American maple, paulownia, etc.
7. As already mentioned, subgroup 005.01 of the Classification of land types, according to Annex 4 to the Resolution of the Cabinet of Ministers of Ukraine No. 1051 of October 17, 2012, includes forest land plots occupied by trees and shrubs, with a fullness of plantings in young stands of 0.4 and above, in other age groups - from 0.3 and above (i.e., tree crowns occupy at least 40 percent (30 percent) of the area of the plot) to the minimum density, height of plantings, crown closure, and percentage of the plot filled with woody plants. At the same time, according to data from the Ukrderzhlesproekt and the State Forest Resources Agency, when forming the cartographic data mask of the

geoinformation system during the remote sensing inventory carried out as part of the Sustainable Forestry Implementation (SFI) project, the indicators of the presence of tree vegetation with a minimum canopy closure of more than 50%, detected at a pixel level of 20x20 m, were technically applied, regardless of their legal status¹⁹.

8. Tree vegetation on the plot must be of natural origin: that is, afforestation must occur naturally. Artificial creation of forest plantations (e.g., field protection strips, collective farm forests, etc.) completely excludes belonging to self-afforested areas. The presence of artificially created garden plantations or fruit trees (apple, pear, walnut, etc.) is also excluded. Perennial plantations cannot be forests, since according to land legislation they are an independent type of land on agricultural land.
9. With regard to communal property plots that have been surveyed and identified as self-forested, the territorial bodies of the State Forest Resources Agency prepare a submission in any form, which is sent to the relevant local government body within whose jurisdiction the specified plot is located. In practice, copies of survey reports for such plots and cartographic materials showing the forest cover of the identified plots are usually attached to the submission.
10. According to Article 57-1 of the Land Code of Ukraine, the local council must consider the submitted application within a reasonable time and bring the issue to a plenary session of the local government body. That is, the decision to classify or refuse to classify communal property plots as self-forested is made exclusively at local council sessions. In the case of classification as self-forested, the decision is made not in relation to a change in the intended use, but to a change in the land use to self-forested land. I would like to note that the classification of a plot that is already in use (for example, leased for agricultural production) is carried out in agreement with the user.
11. The approved land management project for the formation of a land plot, information about the land plot as self-forested, is entered into the State Land Cadastre on the basis of an application from the owner or local government body. In essence, this is a simplified form of changing the intended use of a type of land within a certain category of land.
12. The classification of a land plot as self-forested in accordance with the procedure established by law entails the obligation of its owner/user to manage the forest. Accordingly, the forest owner or permanent forest user must comply with the relevant requirements and obligations specified in the Forest Code of Ukraine and other forest legislation.

¹⁹ INVENTORY OF UKRAINE'S FORESTS BASED ON REMOTE SENSING. VO "Ukrderzhlesproekt." Website: nfi.lisproekt.gov.ua. UPL: <https://nfi.lisproekt.gov.ua/rs-inventory/>

13. In accordance with the conceptual ideas of the law, granting self-forested status will primarily enable private owners to preserve the forests that have been created. For communal owners, the land use regime for self-forested areas granted by the local council is essentially transitional, as local councils are not authorized to directly manage forestry. Therefore, the status of self-forested land provides for the subsequent transfer of such land for use to a permanent forest user - a municipal or state forestry enterprise - for forest management.
14. The adopted Law No. 2321 broke the monopoly on forest management, which was allowed exclusively on lands designated for forestry purposes. Such lands could be granted exclusively for permanent use to state or municipal forestry enterprises. Currently, forestry on "self-forested" lands is formally permitted to owners and users on all categories of land (except for lands of the Natural Reserve Fund and forestry lands), subject to compliance with the requirements for the use of such land for its intended purpose. On the other hand, self-forested lands may also be transferred to the category of forestry lands.
15. It should be noted that the content of the adopted law is essentially aimed primarily at private landowners. The law provides a direct opportunity to change the type of land on one's own plot for further forestry management on it. On the other hand, local councils, as holders of communal land, are not authorized by law to use their own land directly and therefore must transfer it for use or sale.
16. Self-forested land plots may be transferred directly for permanent use to a specific forest user. It does not matter whether it is a state or municipal enterprise, as it is important that the identified forests are transferred for protection and forestry management. In this case, the user submits an application for the development of a land management project for allocation for permanent use for forestry and related services (Classification of types of land use -09.01) with a change in the intended purpose. After the land management project has been developed, the relevant local council approves it, granting the use of the relevant formed land plots, changing the intended use to forestry land for forestry and related services (Classification of types of land use 09.01).

The State Enterprise "Forests of Ukraine" is the largest permanent forest user in the country, with 6.6 million hectares of forests in all regions under its use. In addition to the parent company, the enterprise has nine inseparable divisions - territorial branches acting on behalf of the enterprise, whose managers are empowered to conclude contracts. As of November 2025, State Enterprise "Forests of Ukraine" is in the process of reorganization (transformation) into the joint-stock company "Forests of Ukraine."

In the context of complying with the requirements of the law, in 2023 the enterprise launched the FOREST RECOVERY information campaign as a format for cooperation with local communities that agree to transfer self-forested communal lands to the use of the State Enterprise "Forests of Ukraine."²⁰ The state-owned enterprise "Forests of Ukraine" declares its readiness to pay for the development of a land management project that resolves the issue of the financial burden on local councils when registering such lands. As of September 2025, according to the State Forest Resources Agency, approvals have been received from communities for an area of approximately 57,000 hectares, which is relatively insignificant compared to the identified area of 1.9 million hectares.

It should be noted that the preservation of self-forested land on agricultural land is not always expedient and economically justified in the context of Ukraine's regions. Thus, researchers Dorosh O.S. and I.-O.Y. Zastupka believe that in communities where forest cover exceeds 50% and the area of forests is more than twice the area of agricultural land, it would be advisable to avoid self-forested lands²¹. This proposal is justified by the fact that agricultural land in such cases ensures food security for communities and is important for the further comprehensive development of the territory.

2.3 Judicial practice of the prosecutor's office towards local councils regarding the classification of communal lands as self-forested

The study examined 144 court decisions on administrative claims filed by the prosecutor's office against local councils for the period from January 2024 to September 2025 (Annex No. 1 to the report). The subject of most of the lawsuits was the recognition of the inaction of local councils in not considering the submissions of the Interregional Forestry and Hunting Management as unlawful, and the obligation to consider submissions on the classification of plots as self-forested. The total area of the plots in respect of which claims were filed is approximately 136,000 hectares. In 77 cases, the administrative courts fully satisfied the claims of the prosecutor's office, and in 32 cases, they were partially satisfied. The courts completely rejected the claims of the prosecutor's office in 11 cases. At the same time, 15 lawsuits filed by the prosecutor's office were left without consideration and returned for formal reasons (lack of authority, lack of justification for the subject of the lawsuit, the prosecutor did not prove the right to file such lawsuits, etc.). In 12 other cases, there is no data in the court register about the decisions made on them.

²⁰ Smal V. WE HAVE ONE GOAL – TO PRESERVE INDEPENDENCE. Ukrderzhlesproekt. *Website: [openforest.org.ua](https://www.openforest.org.ua)*. UPL: <https://www.openforest.org.ua/307912/>

²¹ Dorosh O. Zastulka I.-O. SCIENTIFIC APPROACHES TO THE USE OF INDEPENDENT FORESTS ON PRIVATELY OWNED AGRICULTURAL LAND IN TERRITORIAL COMMUNITIES. *Balanced Nature Management*. 2022. No. 3/2022. UPL: <file:///C:/Users/Gamer/Downloads/266555-%D0%A2%D0%B5%D0%BA%D1%81%D1%82%20%D1%81%D1%82%D0%B0%D1%82%D1%82%D1%96-628557-1-10-20230123.pdf>

Based on the results of summarizing the practice of courts in considering submissions from interregional forestry administrations to local communities, it was established that most councils took a formal or negative position on granting land plots the status of self-forested. Local authorities were reluctant to consider the submissions of the administrations, often with signs of formalism or with reference to the lack of authority, necessary documents, or technical capabilities. They expressed a similar position in their responses to the lawsuits filed by the prosecutor's office.

For example, the Irshansk City Council (Zhytomyr region) did not consider the submission of the interregional forestry and hunting management at all, and a number of other councils did not respond to the submissions received by the heads of forest administrations. Some communities, such as the Drohobych City Council in Lviv Oblast, made a decision on only one plot, granting it the status of self-forested. As for the rest, it sent requests to the administration for survey reports and justifications. The Lubenska City Council classified several independent plots from those proposed in the submission as self-forested. The Bolekhivska City Council (Ivano-Frankivsk region), Potievska Village Council (Zhytomyr Oblast), Biletska Village Council (Ternopil Oblast), and Bilozirska Village Council (Cherkasy Oblast) found it impossible to consider the issues due to the lack of coordinates, cadastral numbers, and clear identification of the plots. At the same time, land legislation requirements allow village councils to make decisions on granting permission to prepare technical documentation in such cases. Moreover, during the past and current years, the State Enterprise "Forests of Ukraine" agreed to pay for land management works in the event of transferring plots to the use of the specified enterprise.

The Lopatyn Village Council (Lviv region) is one of the few examples of a constructive approach: it was planned to register part of the self-forested plots for permanent use by a municipal enterprise, taking into account the actual afforestation. Also, the Pidvolochysk Village Council in Ternopil Region made a positive decision during court proceedings to classify the plots as self-afforested. At the same time, the Desnyanska City Council in Chernihiv Region, the Zhmerynka City Council in Vinnytsia Oblast, the Snovsk City Council (Chernihiv Oblast), and a number of other local councils provided openly formal responses, limiting themselves to general phrases about the need for additional study of the issue at the committee level, or requested additional documents from the administrations without making any decisions.

The typical reasons for local communities' refusals and evasions of consideration of forestry administration submissions are due to a number of reasons.

First, according to the village councils, the submissions were incomplete (although most of them were prepared using a template): they lacked cadastral numbers, coordinates, survey reports, and cartographic materials indicating the landowner

or intended use. Such actions can be explained by the desire to avoid making decisions on the applications received.

Second, there were objective reasons for the uncertainty of the legal status of certain plots. The submissions mainly concerned unformed state-owned or communal land, which made it difficult to make decisions without land management documentation.

Thirdly, in order to provide formal responses, local councils questioned the survey reports prepared by the administrations. Or they complained that these reports had been compiled without the participation of community representatives, even though this is not a mandatory requirement under the law. On the other hand, due to poor-quality surveys, some village councils objectively established that the reports did not confirm natural afforestation, and therefore there were no grounds for classifying the plots as self-afforested.

Fourth, in practice, it was established that the self-forested plots were related to lands with existing lease agreements, whose tenants did not want to change the type of land, as they would lose their income. In other words, some of the identified lands are used by commercial entities, and changing their status without the user's consent is illegal. As a result, this entails amendments to the concluded lease agreements or their termination.

Fifth, the unusual nature of the legal changes regarding self-forested lands, which communities had not encountered before, became apparent. The law allows local councils to refuse forestry administrations' requests without any consequences. The only means of influence is to recover damages from local councils in the event of illegal logging by unidentified persons on land classified as forest.

Sixth, in the vast majority of cases, the deputies rationally took into account the economic component, since the legislation does not provide any economic incentives for the legalization of self-seeded forests. Changing the category of land will lead to a decrease in rental income and loss of control over areas that can be used for agriculture. This reduces the amount of taxes or rent that communities receive from tenants. Finally, a common practice of local councils was to provide manipulative or formal responses: interim letters, replies, references to "additional study," which effectively blocked the consideration of submissions at sessions and other forms of evasion from decision-making were practiced.

An analysis of court practice in classifying land as self-forested showed a lack of consistency in the implementation of the self-forested land institution: some councils consider only naturally forested areas to be self-forested, while others consider any area overgrown with shrubs to be self-forested. I would like to note that the use of remote sensing of land in combination with DZK data is currently the only quick and effective way to preliminarily identify potential self-forested areas. At the same time, the results of such an analysis are indicative and cannot serve

as sufficient grounds for determining land as self-forested without conducting field surveys. It is field surveys that confirm the presence of trees and shrubs, determine their condition, age, and coverage area, which are key to establishing the fact of self-afforestation. Only after this can the procedure for classifying land as self-afforested begin.

Therefore, based on the results of field inspections, protective forest belts, orchards, artificial or perennial plantations, collective farm forests, private land plots, and even abandoned buildings were sometimes mistakenly classified as self-forested. In general, judicial practice has revealed systemic problems in the activities of local communities in the procedure for classifying land as self-forested. I would like to note that the judicial analysis is based on a portion of land with signs of self-afforestation (according to court claims, approximately 136,000 hectares have been calculated, which is about 7% of the area of identified plots declared by the State Forestry Agency, for which petitions have been filed in the amount of 1 million 960 thousand hectares). Therefore, the transfer of self-forested land requires additional legislative regulation, primarily with measures to provide material incentives for owners – local communities and land users, clear criteria and control mechanisms. It is also necessary to provide resources for conducting on-site surveys in order to further reduce formalism in the review process, ensuring the protection and balance of the interests of the state and local communities.

2.4 Problems with the implementation of legislation on self-forested areas

After more than three years of Law No. 2331 being in force, certain conclusions can be drawn regarding its implementation, and can be identified a number of legal, economic, and organizational obstacles in the transfer of agricultural land with unaccounted forests to self-forested land.

The adopted law became evidence of the state's inconsistent environmental policy regarding the preservation of self-seeded forests

The adoption of Law No. 2321 demonstrated the inconsistency and lack of strategic vision of the state in matters of tree vegetation conservation. The vast majority of unaccounted forests are currently located on communal agricultural land that was transferred to local communities as part of the 2021 land reform in accordance with Law No. 1423-IX. When these lands were still state-owned, it would have been much faster and more efficient to transfer self-forested areas to forestry enterprises for permanent use. Instead, after the transfer of land to communities, the procedure provided for by law applies, under which the state is forced to apply to local authorities with a request to either return such land to state-owned enterprises or independently create municipal forestry enterprises to accept self-forested areas. This approach has complicated the process of legalizing self-forested areas and slowed down the resolution of the problem of accounting for and protecting newly formed forests, primarily due to the unwillingness of local councils to transfer these areas for forestry management.

In addition, when transferring land to communal ownership, land management documentation often recorded it as arable land, although in reality these areas contained fully-fledged unaccounted forests. Such inaccurate information created legal uncertainty regarding the status of self-forested lands, complicated their accounting and protection, and delayed the transfer of these plots to permanent use by forestry enterprises.

The law gave landowners the right, but not the obligation, to classify areas with self-seeded vegetation as self-forested.

The legislative changes do not oblige owners (local communities and individuals/legal entities) to legalize self-seeded trees on their own land. The law established the right, but not the obligation, of a private owner or body that manages land plots (i.e., local self-government bodies) to classify land plots as self-forested. Therefore, local communities have the right, without any negative legal consequences, to decide at their own discretion whether to refuse to classify land as self-forested.

Local councils' lack of financial interest in transferring land and classifying land as communal

The main reason preventing the mass development of self-forested areas is the lack of financial interest on the part of local authorities and private owners in transferring their land to permanent forest users. If the plots are found to have sufficient forest cover, this leads to their potential classification as forestry land. The subsequent transfer of these lands for permanent use to a state forestry enterprise (State Enterprise "Forests of Ukraine") or a specific municipal forestry enterprise changes the taxation of such plots: for forest lands, the land tax is set at only 0.1% of the normative monetary value of arable land in the region. That is, on average, the land tax per 1 hectare of forest land is 32-35 UAH. Compared to the taxation of leased agricultural land, where the tax revenue for the community from 1 hectare can amount to thousands of hryvnias, it is understandable that communities are economically reluctant to lose their own potential revenues by transferring them to forestry enterprises.

Moreover, local councils emphasize that they spend between 200,000 and 500,000 UAH annually on the purchase of firewood for heating social facilities from permanent forest users (State Enterprise "Forests of Ukraine"), noting that they do not receive significant profits from forests on community territory. For example, the Konatyn community in the Chernivtsi region, in an open letter dated April 26, 2024, drafted to protect the rights of communities to forestry land, emphasizes that ordinary citizens pay more per hectare than for forest land. Thus, for residential buildings, they pay an average tax of 900 UAH per hectare, for personal peasant farms – 71.41 UAH, for hayfields – 214 UAH, and for pastures – 59.00 UAH. In addition, the income from leasing agricultural land per hectare is 227.65 hryvnia. That is, on

average, citizens pay 228 hryvnia, which is not equivalent to the payment for forest land, and therefore is less profitable than other community lands.

For the above financial reasons, communities do not show any particular intention to convert their land into self-forested areas and advocate for a review of tax and rent rates for the use of forest resources in order to ensure a fair distribution of benefits between the state and local budgets.

The law does not prohibit the transfer of plots with tree vegetation for lease as agricultural land, with the possibility of their destruction.

Despite the objective requirements of land legislation regarding the use of land for its intended purpose, this approach actually encourages the reduction of potential forests. Unaccounted forests are mostly registered in cadastral documentation as arable land, pastures, and hayfields, which can be transferred to agricultural producers through auctions for lease for commercial agricultural production, which in turn involves the destruction of natural vegetation. In addition, there is a huge risk that undeveloped areas will be transferred by communities to private ownership as agricultural land. As a result, this situation hinders the increase in the country's forest cover and worsens the ecological balance. The lack of balanced legal safeguards in such circumstances creates the risk of losing natural forest ecosystems that could be included in the state forest fund as forests.

Local communities incur additional costs for conducting an inventory of self-forested lands.

The law instructs the Cabinet of Ministers to conduct an inventory of self-forested areas, but does not provide for additional funding. No separate regulatory act has been issued regarding the obligations of communities and the procedure for conducting an inventory of their own lands. Therefore, payment for land management work related to the inventory (if such work is carried out) of unformed plots is borne by local communities, which results in losses for them in the form of additional expenses.

Forest legislation requirements as a voluntary burden for owners and users of self-forested areas

The current Forest Code imposes the same requirements for forest management on both state forestry enterprises and private individuals, regardless of the size of the forest area. The only exception is the rules for forest management: for forest users and forest owners whose forest area is up to 100 hectares, forest management is carried out once every 20 years. As for other requirements, as of 2025, forest owners are required to obtain logging permits for all logging operations from the territorial bodies of the State Forest Resources Agency, on a par with the monopolist, the State Enterprise "Forests of Ukraine," and other forestry enterprises. In addition, forest owners are required to maintain comprehensive forestry documentation and comply with virtually all legal requirements. Therefore,

granting the status of forestry land and transferring it to forest owners or permanent forest users requires a whole range of measures, forcing them to voluntarily take on additional obligations provided for by law.

The law contains repressive measures in the form of an obligation for local councils to compensate for damage caused by illegal logging in non-transferred forests. At the same time, the legislation does not provide for any financial incentives for the conservation of natural forests.

Most European countries provide payments to landowners for converting self-forested agricultural land into forests in the form of compensation for lost income from unharvested crops, financing of maintenance costs, opportunities to participate in climate projects, etc. Despite the objective limitations of Ukraine's budgetary resources as a country at war, the possibility of making payments should be enshrined in law. However, there are currently no legal provisions that would allow for compensation for the costs of forest management, losses due to the inability to obtain agricultural products, etc.

Section 3. Legal liability in the field of the use of tree vegetation on agricultural land and in unregistered forests

3.1 Long-term non-use of agricultural land as a violation of land legislation

According to the Land Code of Ukraine, all land is divided into nine categories according to its main purpose. This division determines the legal regime of the land, i.e., for what purposes it can be used.

As noted in previous sections, Part 1 of Article 22 of the Land Code of Ukraine contains the concept of agricultural land categories. This includes land provided for agricultural production, agricultural research and educational activities, the placement of relevant production infrastructure, including the infrastructure of wholesale markets for agricultural products, or land designated for these purposes. The Land Code of Ukraine provides for the division of agricultural land by type of land and type of intended use.

Thus, agricultural land is intended for growing agricultural crops and carrying out other auxiliary activities for agriculture.

The provisions of paragraphs 2 and 11 of Part 1 of Article 35 of the Law of Ukraine "On Land Protection" define the obligations of owners and land users/tenants of land plots to comply with the requirements of land and environmental protection legislation of Ukraine; to ensure the protection of land from fires, erosion, depletion, pollution, littering, salinization, alkalization, acidification, waterlogging, flooding, overgrowth with weeds, shrubs, and small trees. Also, according to the provisions of Article 91 of the Land Code of Ukraine, land owners are obliged to ensure that their land plots are used for their intended purpose.

According to Article 1 of the Law of Ukraine "On State Control over the Use and Protection of **Land**," failure to comply with the requirements for the use of land for its intended purpose is the non-use of a land plot, except for the implementation of scientifically sound design decisions, or the actual use of a land plot that does not correspond to its intended purpose, established when the land plot was transferred to ownership or provided for use, including lease, as well as failure to comply with the regime of use of a land plot or part thereof in case of restrictions (encumbrances).

In other words, by not using the land plot at all, the owner thus violates the requirements of the law regarding the intended use of the land plot by not using the land plot (passive behavior).

The Supreme Court draws attention to the fact that with the adoption in 2001 of the Land Code of Ukraine, which came into force on 01.01.2002, the legislator changed the approach to the relationship between the concepts of "non-use of a land plot" and "use of land not for its intended purpose." At the same time, the concepts of "non-use of a land plot for its intended purpose" and "use of a land plot not for its intended purpose" are different in legal nature, the latter of which

applies to cases where activities that go beyond the scope of the intended purpose are carried out on a land plot with a specific intended purpose. Use not for its intended purpose implies an action of use, while non-use (inaction) does not imply deprivation of the right of use. Therefore, according to the provisions of Article 141 of the Land Code of Ukraine, non-use of a land plot is not an independent ground for termination of the right to use it. Similar conclusions are set out in a number of resolutions of the Supreme Court.

In accordance with paragraph "d" of part 1 of Article 211 of the Land Code of Ukraine, citizens and legal entities bear civil, administrative, or criminal liability in accordance with the law for the following violations: failure to comply with the requirements for the use of land for its intended purpose.

Therefore, failure to use agricultural land for its intended purpose for a long period of time, resulting in overgrowth with woody vegetation by more than 20% (in the case of pastures, hayfields, and sometimes fallow land) is considered a violation of land legislation. Failure to remove trees from arable land is considered inaction on the part of the landowner. However, this violation is not grounds for termination of the right to use the land plot. Inspectors of the State Geocadaastre or executive bodies of local self-government, which exercise state control over compliance with land legislation, must issue an order to the owner/land user in such cases. In case of failure to comply with the order (refusal to destroy forest vegetation on agricultural land within the period specified in the order), the guilty person shall be held administratively liable under Article 188-56 of the Code of Administrative Offenses.

By its legal nature, this offense (failure to use agricultural land for its intended purpose) is ongoing in nature. A continuing offense is a misdemeanor associated with prolonged, continuous failure to fulfill obligations prescribed by law, which ceases only in the event of the elimination of the condition under which this obligation objectively exists, the fulfillment of the obligation by the relevant entity, or the termination of the relevant provision of the law. This legal position was set out by the Supreme Court in its ruling of December 16, 2020, in case No. 520/109/20.

The effective application of land legislation in this category of cases should be based not on depriving a person of their right to land, but on incentives for state control – prescriptions, administrative penalties, and control over the elimination of violations. As a result, the legal position of the Supreme Court forms an important interpretation practice: the mere fact that agricultural land is overgrown with woody vegetation is not a ground for seizure of the plot, but indicates a continuing violation, the elimination of which is the responsibility of the owner or user.

Persons who evade the destruction of self-sown perennial plants on agricultural land may be held administratively liable if they fail to comply with the orders issued by state land use control inspectors.

3.2. Felling of trees on agricultural land and unregistered forests: legislation and its application

The issue of tree felling on agricultural land and in areas where forests actually exist but are not registered or transferred to forestry enterprises for use is one of the most controversial in the field of natural resource law in Ukraine. The lack of a clear legal regime for such areas creates conflicts between the norms of land, forest, and environmental legislation, which complicates law enforcement in this area.

I would like to note that third parties are not allowed to cut down trees on other people's privately owned land or land leased for agricultural purposes. The Criminal Cassation Court of the Supreme Court noted in this regard that the illegal felling of trees and shrubs outside the forest fund of Ukraine (on agricultural land, household plots, summer cottages, gardens, or other land plots) for mercenary purposes constitutes a criminal offense against property or arbitrariness. (Resolution of the Criminal Chamber of the Supreme Court of 29 May 2024 in case No. 459/2219/20). Trees on a land plot are the property of individuals or legal entities. Unlike illegal logging, they are included in civil (economic) circulation and thus acquire the status of property (goods with property value) and are therefore subject to criminal offenses against property.

At the same time, persons who illegally cut down trees on agricultural land that does not have the status of forests cannot be held criminally liable for illegal logging under Article 246 of the Criminal Code of Ukraine. The electronic timber accounting system, which is mandatory for permanent forest users in accordance with Resolution No. 1142 of the Cabinet of Ministers of Ukraine dated December 4, 2019, does not apply to the accounting and transportation of timber obtained from the felling of trees on agricultural land, as such trees do not have the status of forests and are not in permanent use by forestry enterprises.

It is worth mentioning that, according to the official interpretations of the European Commission regarding Regulation (EU) 2023/1115 of May 31, 2023, on the availability on the Union market and export from the Union of certain goods and products related to deforestation and forest degradation (EUDR), priority in determining forest areas is given to satellite data and the actual condition of the land, rather than its cadastral designation. This means that a plot of land that officially has agricultural status but has not been used for agriculture for the last 10 years and on which a forest has grown is recognized as a forest. This can be interpreted broadly to mean that agricultural producers who have destroyed naturally grown forests and planted them with agricultural crops will not be able to export agricultural products grown on such plots to the EU from January 1, 2026.

There are several precedents in judicial practice according to which the felling of self-sown trees on agricultural land has not been recognized by the courts as illegal and therefore did not entail civil liability. Thus, by a decision of the Commercial Court of Zhytomyr Region dated September 25, 2024, **in case** No. 906/189/24, the

claim of the head of the Korosten District Prosecutor's Office on behalf of the State Environmental Inspection of the Polissya District and the Korosten City Council to recover from Agro-Luh LLC UAH 8,313,837.29 for illegal felling of trees on leased agricultural land²².

Circumstances of the case: based on the results of land auctions between Agro-Luh LLC and the Korosten City Council, land lease agreement No. 202 dated May 25, 2021, was concluded for a term of 10 years for communal land with cadastral No. 1822386600:09:000:0055 with an area of 27.2710 hectares, category – agricultural land, intended use – 01.01 for commercial agricultural production, outside populated areas, within the Korosten Territorial Community. According to the agreement, the plot has no defects that would prevent its use. On January 25, 2022, the police drew up a report on the inspection of the scene, which established that within the plot, on an area of 2.0 hectares, stumps of pine and birch trees were found. Criminal proceedings No. 42022062350000021 were registered on January 27, 2022. Agro Lug LLC did not apply to the Korosten City Council regarding its intention to remove trees on the leased land plot. The local community did not make any relevant decisions and did not give permission to cut down the trees. By the ruling of the investigating judge of the Korosten City District Court of Zhytomyr Region dated January 2, 2023 (case No. 279/905/22), the specified land plot was seized within the framework of criminal proceedings, including a ban on the felling of trees and shrubs. According to the results of the survey of the plot by specialists of the State Environmental Inspection of the Polissya District, 4,368 stumps with a diameter of up to 31 cm were found on it. Based on Resolution No. 665 of the Cabinet of Ministers of Ukraine dated July 23, 2008, the estimated damage caused by the illegal felling of trees was calculated at UAH 8,313,837, which became the subject of the prosecutor's lawsuit.

To substantiate the claims, the prosecutor referred to the provisions of Articles 5, 40, 41, 68, and 69 of the Law of Ukraine "On Environmental Protection," according to which enterprises are obliged to use natural resources in compliance with environmental conditions, and the law provides for compensation for damage caused by violations of nature protection legislation. In addition, the prosecutor justified the claim by referring to Article 1 of the Forest Code of Ukraine, which states that all forests on the territory of Ukraine, regardless of the category of land on which they grow and regardless of ownership rights, constitute the forest fund of Ukraine and are protected by the state.

The defendant, justifying the absence of an offense in his actions, referred to Article 4 of the Forest Code of Ukraine, according to which individual trees and groups of trees, shrubs on agricultural land, household, summer cottage, and garden plots are not considered forests. The court, agreeing with the defendant that the plot

²²CASE No. 906/189/24. Unified State Register of Court Decisions. Website: reyestr.court.gov.ua. UPL: <https://reyestr.court.gov.ua/Review/122238990>

did not belong to the state forest fund, also noted that the prosecutor had not proven the fact that a certain number of trees had been cut down.

3.3 Property liability of local councils for inadequate protection of unregistered forests from illegal logging: court practice

With amendments to land and forest legislation regarding self-forested areas, the second part of Article 107 of the Forest Code of Ukraine was revised to provide for the obligation of local self-government bodies to compensate for damage caused to forests. The amended provision is primarily aimed at encouraging local communities to transfer their forests to state or municipal forestry enterprises for permanent use for forestry purposes in order to avoid financial risks associated with liability for damage caused to forests under their jurisdiction. An analysis of part two of Article 107 of the Forest Code of Ukraine shows that such an obligation arises for a local government body if two conditions are met cumulatively: 1) if the persons responsible for causing the damage are not identified, and 2) if the forest that was damaged is located within the territory of the local government body.

Since the end of 2024, the updated version of Article 107 of the Forest Code of Ukraine has been put into practice. Prosecutors and environmental control authorities, in particular the State Environmental Inspection, began to actively use this provision, filing claims against local councils in commercial proceedings to recover damages for illegal logging if the persons responsible were not identified. This practice has been largely successful for the prosecution and environmental inspectorates. Based on the new provisions, the courts recognize the validity of the claims and oblige local authorities to compensate for the damage from local budgets, which creates a financial burden on communities. Incidentally, this situation creates a paradoxical financial cycle for local communities: they are forced to first pay the full amount of damages for illegal logging in accordance with the court decision if the perpetrators are not found. Then, through the State Treasury, local councils are reimbursed 50% of this amount, which corresponds to their share in the distribution of funds for environmental penalties in accordance with the Budget Code of Ukraine (Articles 29, 69-1). The remaining 20% of penalties are directed to regional budgets, and 30% go to the state budget.

In general, the legislation introduced confirms the main goal of the legislative changes – to encourage local communities to transfer forests for permanent use to forestry enterprises, but they do not have a proper user.

According to the State Environmental Inspection of Ukraine, as of January 1, 2025, 95 cases of illegal logging by unidentified persons within the territory of communities were detected during 2022-2024. In 90 cases, the damage was calculated at a total of about 90 million hryvnias, of which 18 claims were sent to communities for a total of 18 million, of which 3 million hryvnias were compensated.

Thus, by a decision of the Economic Court of Rivne Region dated 27 February 2024 in case No. 918/1356/26, the Rivne Region Economic Court denied the claim of the

State Environmental Inspection of the Polissya District to recover UAH 2,911,939.82 from the Rokytno Village Council of the Sarny District of the Rivne Region for illegal logging. However, by a ruling of the North-Western Commercial Court of Appeal dated May 29, 2024, the appeal of the State Environmental Inspection of the Polissya District against the decision of the Commercial Court of Rivne Region dated February 27, 2023, **in case No. 918/1356/23** was upheld, and a new decision was made, which upheld the inspection's claim in full and recovered the entire amount of damages claimed. The decision of the court of appeal was left unchanged by the court of cassation, which expressed its legal position on the matter (decision of the Supreme Court dated 19 September 2024).²³

Circumstances of the case: In October 2023, representatives of the State Environmental Inspection of the Polissya District, together with the Rokytno Village Council, inspected a plantation outside the village of Rokytno in the Rivne region, where they discovered the illegal felling of 978 pine trees of various diameters, causing damage estimated at UAH 2,911,000. An important detail: according to the village council's certificate in form 6-zem, based on the 1989 forest management materials (obviously, former collective farm forests), the forest belonged to the category of forestry land and was in the reserve of the Rokytno village council. The settlement council did not agree that the disputed area had the status of forests. The court, referring to Articles 86, 105 of the Forest Code, Articles 68, 69 of the Law of Ukraine "On Environmental Protection," noted that the unlawful conduct of the defendant — Rokytno Settlement Council — consisted in the fact that the local government body failed to fulfill its duty to protect the forest from illegal logging and failed to monitor compliance with environmental protection legislation. In other words, by committing unlawful inaction in the form of failure to take measures to ensure the protection and preservation of forests from illegal logging on the territory of the forest fund under its jurisdiction, the Respondent acted unlawfully, which led to the illegal felling of trees by unidentified persons and caused damage to the forest.

The court decision does not contain information about the origin of the specified forestry plot, which is obviously not formed (no cadastral number has been assigned), and no state registration of property rights has been carried out. It should be noted that tree vegetation on agricultural land and on forestry land has a fundamentally different legal status.

In the same year, 2024, the All-Ukrainian Association of Local Self-Government Bodies, the Association of United Territorial Communities, and the Association of Small Cities of Ukraine made proposals for immediate amendments to Article 107 of the Forest Code of Ukraine. In support of their position, the associations rightly pointed out that such payments from local budgets deprive law enforcement

²³ CASE No. 918/1356/23. Unified State Register of Court Decisions. Website: reyestr.court.gov.ua. UPL: <https://reyestr.court.gov.ua/Review/119484032>

agencies of their material and financial basis, contribute to their inaction, increase such violations (the search for criminals becomes a formality), and lead to social injustice, as innocent people are punished.

In January 2025, following mass appeals from local councils, parliamentary hearings were held in the environmental committee of the Verkhovna Rada. As a result, the associations' proposals to amend Article 107 of the Forest Code of Ukraine to abolish the responsibility of local councils for illegal logging by unidentified persons were not supported.

After the cassation review of the "precedent" court decision, the state environmental inspection and the prosecutor's office initiated a series of similar lawsuits. In particular, by a ruling of the North-Western Commercial Court of Appeal dated July 3, 2025, the decision of the Commercial Court of Zhytomyr Region dated April 25, 2025, **in case No. 906/944/24** was overturned. A new decision was adopted, satisfying the claim of the State Environmental Inspection of the Polissya District to recover from the Pulyny Village Council of the Zhytomyr Region UAH 1,797,949.87 for damage caused to the forest as a result of illegal felling of 222 trees by unidentified persons located within an unformed forestry plot outside the village of Buryakivka, Pulyna Territorial Community²⁴.

A similar court practice can be found in case No. 921/288/25, in which the decision of the Economic Court of Ternopil Region dated 15.09.2025 fully satisfied the claim of the Buchach District Prosecutor's Office against the Buchach City Council of Ternopil Region. The court imposed a fine of UAH 58,244 for the illegal felling of four hornbeam trees in October 2022 on a land plot covered with forests. In the past, the plot belonged to a former municipal forestry enterprise, but at the time of felling, it had not been transferred for permanent use and was still in the reserve of the city council²⁵.

In addition, there have already been cases where the prosecutor's office, on the grounds of non-compliance with the requirements of Part 2 of Article 107 of the Forest Code of Ukraine by local authorities, has filed similar economic claims for damages for illegal logging in field protection strips. Thus, by a decision of the Commercial Court of Kirovohrad Region dated June 19, 2025, in case No. 912/597/25, the prosecutor's claim for the recovery of UAH 468,522 from the Velyka Andrusivka Village Council of the Oleksandriya District of Kirovohrad Region for the illegal felling of 91 trees, discovered in October 2022 in a field protection strip. I would like to note that, given the widespread nature of illegal logging in field

²⁴ CASE No. 906/994/24. Unified State Register of Court Decisions. Website: reyestr.court.gov.ua. UPL: <https://reyestr.court.gov.ua/Review/128780999>

²⁵ CASE No. 921/288/25. Unified State Register of Court Decisions. Website: reyestr.court.gov.ua. UPL: <https://reyestr.court.gov.ua/Review/130192942>

protection strips, the spread of this court practice could lead to significant penalties for local budgets²⁶.

On the other hand, there is already controversial court practice whereby a local government body is charged for damage caused by the illegal felling of 66 trees on a formed agricultural land plot of communal property (reserve land) with an area of 7.06 hectares, belonging to the Zolochiv MTG. According to the decision of the Commercial Court of Lviv Region dated 16.09.2025 in case No. 914/1794/25, the claim of the First Deputy Head of the Zolochiv District Prosecutor's Office of the Lviv Region in the interests of the State Environmental Inspection in the Lviv Region was fully satisfied and UAH 185,579 in damages was recovered from the Zolochiv City Council of the Zolochiv District of the Lviv Region. The court referred to the database of the Geoinformation System for Forest Resource Management of Ukraine, which established that the 7.2069 ha plot of communal agricultural land with cadastral number 4621882600:24:000:0363 is a self-forested plot (reserve land), indicating illegal logging of forest that has not been granted for use. It is difficult to agree with the court's position, since the text of the court decision does not mention the classification of such vegetation as forest, as provided for in Article 107 of the Forest Code of Ukraine. Obviously, the area only has the characteristics of a self-forested area and does not have the official status of a self-forested area. As of October 2025, there is no information in the register about this decision coming into legal force.²⁷

It should be concluded that the property liability of local self-government bodies for inadequate protection of forests from illegal logging, under Part 2 of Article 107 of the Forest Code of Ukraine, is quite severe. Practice has shown that local councils are in fact financially liable for damage caused by unidentified persons, even though they themselves do not engage in such logging, which creates social and legal injustice. In fact, such liability acts as a kind of "stick" for local councils in case of failure to transfer forested areas to forestry enterprises for permanent use. On the other hand, liability is provided specifically for illegal logging within forests, and not on agricultural land that has signs of self-forestation. Therefore, this provision may partially discourage the normalization of self-seeded trees to forest status, as in such cases there is a risk of property penalties for illegal logging in legalized forests.

At the same time, European experience shows that the most effective incentives for creating forests are economic levers, financial payments, and encouragement for those who wish to engage in forestry, rather than strict property liability.

²⁶CASE No. 912/597/25. Unified State Register of Court Decisions. Website: reyestr.court.gov.ua. UPL: <https://reyestr.court.gov.ua/Review/128484369>

²⁷ CASE No. 914/1794/25. Unified State Register of Court Decisions. Website: reyestr.court.gov.ua. UPL: <https://reyestr.court.gov.ua/Review/130269358>

It should also be taken into account that not all permanent forest users are willing to accept certain categories of forests, in particular forest belts, for economic reasons. Similar problems arise with regard to "no man's" forest areas of the nature reserve fund, which are under the jurisdiction of local councils and are also subject to protection.

Therefore, it would be advisable to soften the legislative provisions on the property liability of local councils, primarily by reducing the amount of penalties in the form of a certain percentage of the damage caused. This will balance the interests of the state, local communities, and forest users, while maintaining the incentive to transfer forests to permanent use and comply with forest protection rules. This approach will ensure fairer legislative regulation, reduce financial risks for local budgets, and contribute to more effective forest protection.

Section 4. European experience in the legal regulation of self-forested lands. General legislative approaches to the transfer of self-forested lands to forests

A significant portion of land in various regions of Ukraine is not used for its intended purpose or is in a state of degradation, which has generally negative economic, environmental, and social consequences. But our country is no exception when it comes to the problem of agricultural land neglect. Similar processes are observed on the European continent, which for many years was the center of intensive agriculture and is now undergoing significant changes in land use. Soil degradation, climate change, rural depopulation, and changes in the economic model have led to large areas of previously cultivated land or pastures becoming overgrown with wild trees and shrubs. A study using Earth remote sensing (ERS) data conducted in 2015 showed that the area of abandoned agricultural land in Europe was about 128.7 million hectares.

European legislation enshrines an approach whereby the intended use of agricultural land can be not only active (aimed at agricultural production) but also passive. This refers to preserving soil fertility, maintaining ecological balance, and avoiding intensive economic use. This approach is in line with the principles of the EU's Common Agricultural Policy, which recognizes the environmental value of "passive" land use and compensates farmers for income losses due to participation in environmental protection programs, biodiversity conservation, or afforestation of low-yield agricultural land.

The current Regulation (EU) No. 1305/2013 of the European Parliament and of the Council of December 17, 2013, "On support for rural development by the European Agricultural Fund for Rural Development (EAFRD) and repealing Council Regulation (EC) No. 1698/2005" provides for financial support for rural development within the framework of the common agricultural policy, including measures aimed at preserving natural resources and improving the environmental sustainability of agricultural landscapes. One of the key areas is support for the creation and maintenance of forests on agricultural land (Section III "Forestry development and sustainable forest management" (Articles 21–26)). In particular, the Regulation provides for compensation payments to landowners and farmers for converting agricultural land into forests or for maintaining wooded areas that were created with EU support. Such measures are financed through the European Agricultural Fund for Rural Development (EAFRD) in the form of one-off grants for the creation of forest plantations and annual payments to cover maintenance costs during the first years after afforestation.

The integration of natural afforestation - a process whereby abandoned or low-yield land is naturally restored with woody vegetation, saving resources and creating more sustainable ecosystems - plays a significant role in achieving the

strategic objectives of the EU's New Forest Strategy to increase forest cover in EU countries.

The mechanism for financing afforestation measures under Regulation (EU) No. 1305/2013 is also implemented through national and regional rural development programs approved by the European Commission. Each Member State determines the amount of support independently, based on the type of land, the cost of establishing and maintaining plantations, and taking into account the loss of income from previous agricultural use. In most EU countries, farmers receive annual compensation payments for maintaining forest plantations during the first 10-12 years after the forest is established. These payments usually range from €100 to €300 per hectare per year and are intended to cover the costs of caring for and protecting young trees and ensuring their survival.

Regulation (EU) No. 1305/2013 pays particular attention to the voluntary nature of farmers' participation in afforestation programs, as well as ensuring the compatibility of forest plantations with nature conservation and climate objectives. The Regulation encourages the use of local tree species and the introduction of sustainable management practices that combine agricultural production with environmental protection.

This section examines the experience of a number of European countries in addressing the problem of abandoned agricultural land, in particular the legal, economic, and environmental regulatory mechanisms aimed at its restoration and effective use.

Germany

In Germany, the legal regulation of the conversion of self-afforested agricultural land into forests is based on a clear legal system that combines federal norms with regional characteristics of the land. The basis is the Federal Forest Act, which defines the concept of a forest, the procedure for its creation, and general management principles. At the same time, specific procedures are detailed in forest laws at the state level, which allows for regional environmental and socio-economic conditions to be taken into account. Self-afforestation is recognized as a natural process, but it does not in itself change the intended use of the land. The plot formally remains agricultural until the owner submits an application for its transfer to the forest category. This procedure is permissive in nature and aims to ensure balanced land use, primarily by verifying compliance with spatial plans, nature conservation areas, and sustainable land use requirements. The state encourages owners to legalize such plots through a system of financial incentives. Within the framework of federal and state programs, subsidies are provided for the creation and maintenance of new forests. In addition, under the EU's Common Agricultural Policy (GAK/ELER), compensation is paid for converting low-yield land into forest, and some states, such as Bavaria and Saxony, have additionally introduced CO₂ premiums for voluntary forestry projects.

At the same time, the legislation contains a number of restrictions: conversion is prohibited on land of high agricultural value, in built-up areas, or in ecosystems where afforestation could harm the natural environment (e.g., on peatlands). Self-afforestation without permission is not considered a violation, but legally such areas do not acquire forest status and are not included in the Forstkataster until official approval is obtained.

In general, Germany's experience demonstrates exemplary legal logic: self-afforested lands are recognized as a potential resource of the forest fund, but their legal status, as in Ukraine, is determined only after administrative registration.

Similar legislative requirements for the legalization of self-forested lands as forests are provided for in the legal framework of Austria.

Norway

The solution to the problem of land degradation and control over its use in Norway is comprehensive and combines land and forest legislation. According to the provisions of the Land Act, each agricultural plot must be used efficiently and for the benefit of society. If land has not been cultivated for a long time, is in a state of neglect, or has been degraded, Norwegian local authorities or regional agricultural inspectorates have the right to intervene. They may issue a written warning or official order to the owner or tenant of the plot, specifying the period within which certain measures must be taken: recultivation, clearing of shrubs, afforestation, or creation of protective strips. If the owner ignores these requirements, the municipality has the right to decide to forcibly transfer the land to another person who can ensure its effective use for a period of up to ten years.

Particular attention is paid to land that is already partially overgrown with trees naturally. In such cases, the municipality may recognize the area as self-forested and decide to change its intended use from agricultural to forestry. This decision is accompanied by the introduction of appropriate changes to the state land cadastre. The owner is obliged to provide minimal care for the newly formed plantations or may apply for funding for restoration measures through the state environmental funding fund (Skogfond). The Skogfond fund is a unique tool that allows forest and land owners to accumulate part of their income from economic activities in a special account. Funds from this fund can be used for forest restoration, promoting natural reforestation, soil protection, young forest care, and environmental programs.

The procedure for recognizing land as self-reforested is based on the results of land cover monitoring carried out by the Norwegian Institute for Bioeconomic Research. As part of the national forest inventory, the institute analyzes satellite images, remote sensing data, and field surveys to identify areas where natural forest regeneration is occurring. If such processes are confirmed, local authorities decide to reclassify the area as forest land.

Sweden

The Swedish approach differs in several fundamental ways from the models adopted in continental European countries, such as France and Germany. There is no strict licensing procedure for "converting" agricultural land to forest land. The system is based on trust in the owner, state monitoring, and voluntary reporting. Natural reforestation is seen not as a loss of agricultural land, but as part of the state's climate policy aimed at adapting to climate change, maintaining biodiversity, and stabilizing the water regime. This approach is based on the principle of the equal value of forestry and agriculture as forms of land use. The legislation does not strictly separate these categories, but is guided by the actual condition of the land, its ecological function, and its suitability for the sustainable use of natural resources.

According to Article 2 of the Swedish Forest Act, a forest is defined as any area of at least 0.5 hectares covered by woody vegetation capable of sustainable regeneration. If such land is not actually used for agriculture and has begun to grow trees naturally, it is recognized as forest land. A formal change of status in the cadastre is not mandatory, but the owner must notify the Swedish Forest Agency. The procedure consists of several steps. First, the owner sends a notification to the Forest Agency about self-afforestation or the intention to stop cultivation and leave the land for natural forest formation. The agency checks whether the plot meets the criteria for forest land and determines whether it is located in areas where afforestation is prohibited (e.g., open cultivated landscapes, Natura 2000 sites, or pastures of historical and natural conservation importance). If there are no objections, the area is included in the national forest land fund and recorded in the forest inventory system. Thus, Sweden applies the principle of "de facto change of status": if an area has become a forest naturally, it is legally recognized as a forest without the need for a separate decision.

The law also provides for a number of restrictions. Afforestation is prohibited or strictly regulated in open landscapes where the government seeks to preserve the characteristic Swedish cultural rural landscape — pastures, meadows, hayfields. In such cases, owners can receive financial compensation for maintaining the open biotope. If the site is located within a nature conservation area, a special permit is required in accordance with the provisions of the Environmental Code. In other cases, self-afforestation is considered legal and does not require prior approval — notification is sufficient.

A system of financial incentives is in place to encourage owners to engage in natural forest restoration. Through the Forest Agency, the state provides subsidies for natural forest restoration, recultivation of degraded land, and erosion control. An additional incentive is the possibility of obtaining carbon credits under climate programs that support private initiatives to reduce emissions and sequester carbon. Tax breaks are also available to small forest owners if the land is registered as forestry property.

Finland

In Finland, the system for converting self-forested agricultural land into forest is quite similar to the Swedish model and is considered one of the most effective in Europe, combining flexible legal regulation, a scientific approach, and significant state support for owners. The system is based on the Forest Act of 1996 and the Land Use and Building Act of 1999, which operate in conjunction with agricultural legislation. According to these laws, natural afforestation is not considered a violation of the intended use of land, but is regarded as a natural process that has economic, climatic, and environmental value. In Finland, any area suitable for sustainable timber production is recognized as a "forest," even if it was previously used for agricultural production.

The procedure for changing the category of land is simple and without excessive bureaucracy. First, the local center for environmental protection, economy, and infrastructure assesses the actual condition of the site: whether cultivation has been discontinued for more than 10 years, whether there is natural tree regeneration covering at least 30%, and whether there are any restrictions under environmental or cultural heritage legislation. If the conditions are met, the plot is reclassified from agricultural land to forest land in the National Land Registry, after which it is registered with the Finnish Forest Centre. From that moment on, it is subject to forestry legislation and becomes part of the national forest fund, and the owner acquires the rights and obligations provided for forest users.

The state actively encourages owners to reforest neglected land. Through the Kemera program, the state compensates up to 70% of the costs of creating or maintaining new forests, and from 2024 it will be replaced by a new mechanism, METKA (2024–2030), which focuses on environmental benefits — increasing CO₂ absorption, creating buffer forest strips, and protecting biodiversity. Tax incentives, grants for the maintenance of young forests, and the opportunity to participate in carbon credit schemes administered by the Forest Center are also provided. This approach has allowed Finland not only to reduce the area of abandoned agricultural land but also to increase forest cover to over 75% of the country's territory.

Romania

In Romania, the conversion of agricultural land overgrown with trees into forest land is regulated by Forest Code No. 46/2008, Land Fund Law No. 18/1991, and Government Decree No. 264/1999 "On the Afforestation of Agricultural Land." These define the procedure for changing the intended use, the rights and obligations of owners, and the conditions for state support. Romania's current Forest Code divides all forest vegetation into two broad categories: the national forest fund and forest vegetation outside the forest fund. In accordance with the National Forest Strategy, the state aims to increase forest area by 5%, viewing afforestation as a tool to combat climate change, soil degradation, and erosion.

To stimulate this process, financial incentives have been introduced, including grants, compensation for planting, loss of income, and tax breaks, making afforestation economically viable for both farmers and municipalities.

The procedure for transferring self-afforested land to the forest fund is clearly regulated. The owner or community submits an application to the District Forestry Agency, which conducts a technical assessment of the site based on the following criteria: the presence of natural tree regeneration, an area of at least 0.5 hectares, no cultivation of the land in recent years, and compliance with spatial planning. The law also restricts the transfer of highly productive land to forests. After verification, a decision is made to change the land category, which is entered into the land cadastre. From that moment on, the plot acquires the status of forest and is subject to the Forest Code — with the corresponding requirements for protection, care, logging, and reporting. Individual projects involving plots within nature conservation areas or the Natura 2000 network are additionally agreed with the environmental authorities.

Interestingly, the protection of self-forested lands can be carried out by the National Forest Administration of Romania (RomSilva) — an entity managing 3.13 million hectares of state forests, which accounts for 49% of all state forests. It has a commercial mandate to provide protection services for approximately 1 million hectares of forests under other jurisdiction.

An important feature of Romania's experience in converting land to forest is the combination of financial instruments. The state compensates for the loss of income from agricultural use for 12 years, provides grants for planting and caring for forests, and supports afforestation through the FEADER program and the EU Recovery and Resilience Fund, which has already been mentioned.

France

In France, the problem of agricultural land reforestation has both environmental and legal implications. According to official data from the French Ministry of the Environment, as of 2023, approximately 2.5 million hectares of land remain uncultivated, accounting for almost 10% of the total agricultural area. A significant part of these territories is gradually becoming overgrown with trees and shrubs, forming new natural forest ecosystems. The legal status of such plots is determined by the cadastre and local spatial planning plans, which establish whether the land belongs to the *agricole*, *naturelle*, or *forestière* category. As in Ukraine, even if a plot is actually overgrown, it legally retains its status as agricultural land until it undergoes a change of use procedure. Any actions related to afforestation or plowing are regulated by the Forest Code and require the submission of a declaration or obtaining a permit depending on the scale of the project.

A key role in regulating the status of self-afforested land is played by the unique French institution SAFER (Société d'Aménagement Foncier et d'Établissement Rural), which has the right of first refusal to purchase agricultural land. SAFER can

buy land that is no longer cultivated and transfer it for agricultural policy, recultivation, afforestation, or local communities. For owners who wish to officially convert their land into forest land, there is a standard procedure: a CERFA application is submitted for so-called "first afforestation," after which the regional administration evaluates the project and grants or denies approval. If the project meets environmental and spatial requirements, the land is registered in the cadastre as forest land.

The state actively encourages voluntary afforestation through economic instruments. One of the key instruments is the national carbon certification scheme Label Bas-Carbone, which allows landowners to obtain carbon credits for creating new forests and sell them to investors. In addition, tax incentives and state subsidies are provided for the creation and management of forest plantations. Such programs are aimed at promoting sustainable land use, increasing the carbon potential of territories, and supporting biodiversity.

Spain

In Spain, land issues are regulated at the level of autonomous communities (the country has an administrative structure of 17 autonomous communities and two cities with special status, which in turn are divided into 50 provinces (analogous to Ukrainian regions). However, the basic principles of land relations are determined at the state level, primarily in the Forestry Act, the Sustainable Rural Development Act) and the Climate and Energy Transition Act. All of them recognize natural afforestation and forest restoration as socially beneficial activities that contribute to the fight against erosion, desertification, and climate change. The actual overgrowth of a plot with trees can automatically grant it forest status, but it requires official registration in the cadastre through administrative formalities.

The procedure for converting forested land into forest involves a number of steps: submission by the owner or community of an application to the relevant autonomous authority with a technical report, maps, and cadastral data; verification of the condition of vegetation, protection regimes, and compatibility with the local land use plan; official changes to the land cadastre, state registration, and preparation of a simple forest management plan for areas larger than 25 hectares.

To encourage afforestation, the state and autonomous regions provide financial support: national programs with payments for up to 20 years for loss of agricultural income and one-time compensation for planting trees; preferential taxation of registered "montes protectores"; the possibility of selling carbon credits under Proyecto Clima and support for agroforestry, provided it is compatible with the protection of tree cover. At the same time, there are legal restrictions: land in areas prioritized for agricultural use requires permission from the autonomous Ministry of Agriculture; it is prohibited to reforest illegally logged areas. In addition, reforestation in Natura 2000 areas requires an environmental impact assessment.

United Kingdom

In the United Kingdom, the conversion of self-afforested agricultural land to forest status is regulated by a system of laws and programs that combine national legislation with forestry and environmental protection support programs. Self-afforested agricultural land that has lost its productivity and become overgrown with trees is recognized as potential forest land. It is important to note that unauthorized tree growth does not automatically confer forest status, and official approval from the competent authority is required to legalize such an area. Regional authorities in the Kingdom assess the area based on a number of criteria: the presence of tree vegetation, its density and species, the history of land use, the absence of active agricultural cultivation in recent years, as well as the environmental and climatic feasibility of the conversion.

The conversion procedure requires the owner or local government to submit an application for the creation of a forest, providing information on the area, soil type, tree species, and expected environmental benefits. After an expert assessment, a decision is made on the inclusion of the site in the forest land register. From the moment of inclusion, the site receives the legal status of a forest and is subject to forest legislation, which provides for obligations to protect trees, care for young forests, record felling, and comply with the principles of sustainable forest management.

Like most forested countries in Europe, the UK has a broad system of incentives for landowners who agree to convert self-forested land into forests. These include one-off grants for tree planting, compensation for loss of agricultural income, technical support for several years after planting, and tax breaks. Part of the funding comes from government programs and EU funds under rural development policy, as well as climate policy programs that encourage carbon sequestration and the restoration of natural ecosystems. In addition, landowners can benefit from participating in ecosystem services projects, which include supporting biodiversity, protecting water resources, and creating natural corridors.

It should be added that Italian legislation takes a similar approach. An important feature of the Italian approach is its strong regional component, as each region has its own forest development plans and afforestation rules, which allows for local environmental, economic, and cultural characteristics of the territory to be taken into account. Conversion of land to forest in Italy is not permitted in areas with highly productive agricultural land without a justified economic or environmental need, and in nature conservation and historical and cultural areas it requires additional approvals in accordance with environmental and cultural heritage laws.

Poland

In Poland, the process of converting naturally overgrown agricultural land into forest land is clearly regulated at the legislative level. Its legal basis is the Forest Act

of 1991, the Agricultural and Forest Land Protection Act of 1995, and subordinate acts of the Ministry of Climate and Environment. This system combines the principles of soil protection, spatial planning, and state incentives for owners to reforest degraded or abandoned land. If a plot of land has lost its productivity and has become naturally overgrown with trees, it can be reclassified as "forest land," but this change is not automatic — it requires an administrative decision by the competent authority.

The conversion procedure requires an initiative from the owner or local government (gmina), which submits an application to the mayor or voivode. After that, the condition of the land is assessed according to criteria such as no agricultural use for at least ten years, the presence of stable tree vegetation covering at least 30% of the area (), and the unsuitability of the soil for agriculture. Based on the expert opinion, the cadastral category of the plot is changed, after which it falls under the Forest Act. The owner receives the corresponding rights and obligations — in particular, a ban on unauthorized logging and the possibility of receiving state aid for forest management.

The Polish state actively supports the afforestation of low-yield agricultural land through financial incentives. In particular, under the National Afforestation Program and the Strategic Plan for the Common Agricultural Policy 2023–2027, owners are granted bonuses for creating forests, compensation for loss of agricultural income, and funds for caring for young plantations. In addition, reclassified land is exempt from agricultural land tax and subject to a lower forest tax. All procedures are carried out in accordance with local spatial development plans, which ensures the coordination of the state's environmental policy with the interests of landowners and the sustainable development of rural areas.

Summarizing the examples presented, it can be said that European experience in transferring agricultural land overgrown with forest to the forest fund is diverse and successful. It is based on several key principles:

1. A comprehensive approach: A combination of legislative mechanisms, financial incentives, and environmental approaches is most effective.
2. Flexibility and subsidiarity: Taking local conditions into account and empowering regional and local authorities allows policies to be adapted to specific needs.
3. Economic viability: Encouraging landowners to convert land through financial subsidies, tax breaks, and payments for ecosystem services ensures their interest in preserving forests.
4. Sustainable development: Using approaches that combine economic, environmental, and social aspects contributes to the creation of sustainable and productive forest areas.

5. Tax incentives: In some countries, forest land is taxed at lower rates than agricultural land, which encourages landowners to convert their land.
6. Carbon markets: The development of carbon markets opens up new opportunities for forest owners, who can generate income from the sale of carbon credits. This creates an additional financial incentive for afforestation.

CONCLUSIONS AND RECOMMENDATIONS

The study of the legal status of self-afforested lands and unaccounted forests in Ukraine revealed a number of systemic problems that prevent the effective inclusion of these territories in the forest fund or their transfer to permanent forest users, despite their significant potential for increasing forest cover and fulfilling climate commitments. The analysis leads to the following key conclusions:

1. **There is significant but unrealized potential for legalizing new forests.** The identification of approximately 1.9 million hectares of state- and municipally-owned land with signs of self-afforestation (as of 2025) indicates a huge reserve for increasing forest cover. At the same time, it should be noted that this figure does not refer exclusively to self-seeded forests, but covers all identified land with signs of tree plantations, which are mostly unformed (field protection strips, perennial plantations, registered and unregistered forests with different legal statuses, individual agricultural lands, etc.).

The figure does not include land with signs of self-forested private property. In reality, only more than 10.5 thousand hectares of communal self-forested land have been transferred to forestry enterprises for use, which indicates the critically low efficiency of the current mechanism.

2. **Imperfection of the legal mechanism.** Law of Ukraine No. 2321-IX of 20.06.2022, which introduced the institution of self-forested lands, despite its progressive nature and important changes for the development of forestry, has a number of shortcomings:

- It does not provide any economic incentives for local communities and private owners to convert self-forested lands into forests. Instead, the conversion of lands into forests entails a reduction in local budget revenues from rent and land tax, as well as a reduction in land resources.
- The law does not prohibit the destruction of self-seeded trees, does not prohibit the leasing of land already overgrown with forest, and does not provide for conditions/restrictions on the granting of permits by local communities for the felling of self-seeded vegetation, which legalizes their further destruction. There is a risk of destruction of tree vegetation on hundreds of thousands of hectares of unformed land, which is currently in communal ownership.

3. **Lack of funding for the implementation of the adopted law.** Conducting an inventory and preparing land management documentation for the transfer of unformed self-forested lands places a financial burden on local budgets, which usually do not have sufficient funds for this. Therefore, the creation of new forests at the expense of agricultural land (even low-productive) in the absence of funding is unprofitable for local communities. In addition, to date, Ukraine has not created a legal framework for the payment of ecosystem

services through the carbon credit mechanism, which could be used to provide alternative sources of funding for communities. In particular, by generating income from the conservation and restoration of self-forested areas, carbon sequestration in biomass, and the sale of corresponding carbon credits on the domestic or international market.

- 4. Passive resistance from local governments.** Local councils, which are key players in the process of classifying communal lands as self-forested, are avoiding making the necessary decisions due to financial disinterest and other reasons, as confirmed by large-scale court cases involving lawsuits from the prosecutor's office.
- 5. Lack of a targeted policy in the field of self-reforested woodland management on agricultural land and adequate state control** over land use by the state and local authorities. Significant areas of land with signs of self-afforestation have become possible as a result of years of inaction by state authorities, the lack of a systematic policy and monitoring, as well as effective control over the use of land for its intended purpose and the registration of unaccounted forests. This has led to the formation of large areas of undeveloped land with tree and shrub vegetation, which have effectively fallen outside the scope of state management and have no defined legal status.
- 6. A repressive approach instead of providing incentives.** One of the "incentives" for communities was financial liability for illegal logging by unidentified persons in unregistered forests (Part 2 of Article 107 of the Forest Code of Ukraine). At the same time, there is no financial liability for logging on unregistered self-forested agricultural land. It follows that under such conditions, it is not profitable for local councils to transfer such lands to the status of "self-forested" lands, as there is a risk of penalties being imposed. This also creates social injustice and a financial burden on local budgets, without addressing the root causes of the problem.
- 7. Legal uncertainty and gaps.** There are difficulties with the legal status of communal/state self-forested agricultural land, compliance with legislation on flora, and the absence of regulatory restrictions on the removal of self-sown vegetation, which is in fact forest. The lack of clear procedures allows for the legal destruction of unaccounted forest ecosystems on communal lands.

Proposals:

To overcome the identified problems and realize the potential of self-forested lands, a set of measures is proposed:

- 1. Define a unified state policy for the management of self-seeded woodlands,** which will include the creation of a list of self-seeded lands with the mandatory inclusion of data on all plots identified as a result of inventories, land monitoring,

and strengthening state control over land use; integration of data on self-seeded forest lands into the community land planning system and state environmental protection programs.

2. Introduction of economic incentives:

In order to ensure the real effectiveness of legislation on self-forested lands, develop and approve special legislation (amendments to forestry and land legislation) that provides financial support for landowners (both municipal and private) who transfer self-forested plots to the forest fund. The legislation should provide for:

- Compensation payments for loss of income from agricultural use (similar to EU programs, for example, over a period of 10-15 years).
- Financing of costs for forest management, logging, and forest maintenance.
- - The possibility of purchasing land plots with signs of self-afforestation from their owners: both individuals and territorial communities represented by local councils.

Despite significant budget constraints due to the state of war, the introduction of the proposed legislative changes is necessary to form a promising legal framework that will ensure future targeted funding and effective implementation of state policy on the legalization of self-forested lands.

3. Improvement of legislation:

Amend land legislation to introduce a mandatory procedure for inventorying and classifying state- and municipally-owned lands that meet the criteria established by law as self-forested lands.

The intended purpose of self-forested state-owned agricultural land under the Land Bank project should be forestry, and it should be transferred to state forestry enterprises for forest management.

An administrative barrier to the unjustified destruction of tree vegetation on agricultural land could be the legislative regulation of the procedure and method of granting permits by local authorities for the felling of tree vegetation on communal agricultural land that does not belong to the forest fund. In particular, this concerns self-forested pastures, hayfields, and arable land, for which it is advisable to establish felling limits that can be issued in agreement with the authorized state body.

4. Mitigation of the property liability of local councils for illegal logging

Amend Article 107 of the Forest Code of Ukraine by reducing the amount of property liability of local self-government bodies for illegal logging in non-transferred forests committed by unidentified persons, and provide for exemption

from liability in the event of independent detection of illegal logging, or in the event of refusal to accept PZLS for permanent use, etc. This will balance state interests, ensure that sanctions are fair, and reduce significant financial risks for communities.

The adoption of the proposed measures will transform the current passive and conflict-prone mechanism for transferring self-forested lands into an effective system that combines high-quality state regulation, the economic interests of local communities, and environmental expediency. This will not only preserve and legalize existing natural forest ecosystems, but also create a powerful incentive for further increasing Ukraine's forest cover in line with European approaches and climate change challenges.