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**Compensation for environmental
damage to wildlife and their habitat
caused by logging**

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INTRODUCTION

In 2017, timber company called "ILIM Group" was brought to property liability in Irkutsk region (Russia) for causing environmental damage to wildlife and their habitat as a result of its economic activity.

The amount of compensation: **8 510 778,32 RUB ~ 116 745 Euros**. Compensation for the damage was paid in favor of the State. Although it was not a very large sum, this case could be precedent-setting for other timber companies in the Russian Federation.

In 2017-2018, all three courts recognized that the Company did damage wildlife and their habitat by logging in the public hunting grounds.

In 2019, the Constitutional Court of the RF refused to review the case stating that it is not within their jurisdiction.

In this case, the following questions arise:

- why did such claim and compensation occur in this particular region of Russia (Irkutsk region)? Was there subjective interest in this claim?
- how was the damage to wildlife assessed?
- how to compensate for the damage caused by lawful economic activities of the forest users? Why couldn't the damage be determined in advance?
- can similar damage be caused to private hunting provider? If so, how can it be compensated? Would it be double compensation in this case: in favor of the State and in favor of the hunting provider?
- which compensatory measures must be carried out by a timber company to prevent damages to wildlife?
- does the forest user have the right to compensation for the possible damage caused as a result of hunting?

Factual background of the case:

- forest plots are given to forest users on a leasehold basis as a result of an auction;
- at the same time, these forest plots can be a part of public or private hunting grounds;
- private hunting grounds can be given to private hunting organizations on a leasehold basis ;
- as a result, there is an overlap of several types of uses in one forest area: logging and hunting;
- wild animals are under state ownership, so the damage to such animals must be compensated in favor of the State;
- the amount of damage was determined by calculation according to the Methodology and not by the factual amount.

Legal background of the case:

National legislation has established requirements for preventative measures against death of wildlife caused by the implementation of production processes, but the special list of such measures is non-existent.

The use of forests should be conditioned upon preservation of favorable wildlife habitat. The management regime for areas with feeding and breeding grounds is set by the executive government bodies of constituent entities of the Russian Federation in coordination with specially authorized State bodies responsible for protection, control and management of wildlife and their habitats.

However, these measures are obviously insufficient to prevent environmental damage to wildlife and their habitat caused by logging.

Problems with the calculation of damage amount :

- rent payment for the forest plots does not include the amount of environmental damage to wildlife;
- forest users do not pay for the negative impact on the environment. The polluter-pays principle doesn't work?
- does the principle of priority matter in obtaining a nature resource? Who was the first to sign the lease agreement?
- can the forest user compensate for the damage in-kind?
- why is the Methodology designed for violators of the legislation used for calculation of damage in this case?
- why cannot reforestation measures be considered as compensation for damage to wildlife?
- compensatory payment for damage to wildlife goes into the budget. So, who will have to carry out compensatory measures?

Interim conclusions:

- damage caused to wildlife was assessed according to the Methodology for calculating the damage caused to hunting resources;
- the legislation on hunting only provides for compensation of the damage as law violator's liability;
- environmental damage cannot be assessed in advance;
- similar damage cannot be caused to private hunting users, as the animals are owned by the state;
- legislation does not provide compensatory measures carried out by forest user. Reforestation measures were not considered damage compensation by the courts.

The situation with regard to aquatic biological resources.

The initiator of economic activity that is planning a project which may have a negative impact on water biological resources and their habitat, should assess the damage to aquatic biological resources in their project and take measures to compensate for it in coordination with the authorized body responsible for protection of aquatic biological resources.

For example, they can enter into a contract with a fish breeding plant, pay for the breeding of a certain amount of aquatic biological resources and the release of fry into a water body.

Can similar approach be applied to forest logging?

Conclusions:

- compensation for damage caused to wildlife and their habitat is an objectively necessary State's response measure, however, current legal regulation basically equates legal forest users with "illegal loggers". **It is legal, but unfair, in my opinion.**
- it is necessary to distinguish compensation paid to the state for the damage caused to wildlife from the damage which can be caused to forest users or hunting providers as private organizations;
- hunting legislation needs to specify measures for protection of wildlife; development of appropriate methods and standards is required;
- compensation for damage to wildlife paid in cash should only be applied in exceptional cases;
- experience with compensation of damage to aquatic bioresources can be applied: compensatory actions can be carried out by either the forest user, or on the basis of a contract with authorized bodies of the government responsible for fauna protection.

Thank you for your attention!