

Protection of wild fauna by national regulations for hunting activities

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Abstract: The right of hunting is connected in most European states to the right of property, but in a number of countries this right belongs to the state or local communities. According to the community opinion, the connection between the right of hunting and ownership of the land presents advantages first of all for the conservation of fauna as it limits the number of hunters through increased control and secondly because the private owner has the interest of maintaining their source of income given by their hunting capital. In Europe, generally, where the hunting right is related to ownership of the land, there is a minimum area which gives the right to establish a hunting wildlife allowing the owner to lease this right or to practice hunting themselves.

Key words: hunting right, property right, hunting fauna, European Union

1 General considerations

The hunting right is always related to certain obligations, especially concerning the conservation of biodiversity and the sustainable management of species. That is why during the past decades the concept of connecting the hunting right to ownership of land was developed as this presents advantages for the conservation of fauna, firstly because it limits the number of hunters through increased control and secondly because the private owner is interested in keeping their income source which is their hunting capital.

At a European level the need to elaborate certain principles regarding the interaction between the hunting right and property right was recognized[1]. It is considered that the property right plays the role of a warranty, seen that in order to ensure the continuous existence of their goods, the owners, who are also the administrators of land, are interested in ensuring a balance between rural activities and the presence of resources necessary for these activities. That is why it was considered that the adhesion of new member states to the European Union, which in the majority of cases do not associate the hunting right to the property right, creates social and economical dysfunctions, because connecting these two rights represents the most efficient instrument to ensure on the long run a

balance between economical activities, conservation of the environment and social life [2].

In Europe there are different systems for carrying out hunting activities, systems which correspond to different traditions and cultures, types of natural habitat and which have tried to constitute a balance between various interests (those of the land owners, hunters, rural communities and wild fauna).

The experience of the last decades has underlined the positive role of the land owners and administrators in conservation politics and sustainable development of natural resources. Land owners, people responsible with their long term administration have a direct influence on wild fauna. Their responsibility has manifested both at an economical level, as the income obtained has allowed sustainable management at a social level, by creating new jobs, as well as at an ecological level, as the administration practices have had a direct impact on biodiversity. Land owners and administrators are most often hunters who are aware of the impact of their activity on wild fauna. At the same time, hunters respect and acknowledge the work of land owners. Therefore, in this relationship there is the need for a balance which is reflected in the relation between the hunting right and property right, also ensuring the access of local populations to this activity.

In the year 2001 the European Commission launched the **Sustainable Hunting Initiative**, whose main objective was a better judicial and technical interpretation of the European provisions regarding hunting. The *Bird Directive* referred to the hunting activity and launched a program for the conservation and acknowledgement of the need for sustainable hunting. As part of this initiative, in October 2004, an agreement was concluded with the environment commissioner and an **Interpretative guide of the Commission regarding hunting** was elaborated (March 2009) [3]. The interpretative guide for sustainable hunting was signed on 16 March 2009 and it clarified the ways of applying the Bird directive 79/409/CEE [4].

In November 2004, the Parliamentary assembly of the Council of Europe adopted Recommendation 1689 regarding hunting, by which it proposed the elaboration of a hunting book, which recommended taking into account all dimensions of conserving wild fauna, both the international dimension as well as the national, regional and local ones.

The intergroup within the European Parliament, called "*Sustainable Hunting Biodiversity and Countryside Activities*" gathered representatives from different European political parties concerned by the evolution of this field [5]. Previously, the *Sustainable hunting* Intergroup created in 1985 was one of the oldest and most active in the European Parliament. Presently, during the 2009-2014 mandate, it is supported by nearly 150 European deputies. The goals of its activity are the promotion of hunting and other forms of sustainable use for natural areas, contributing to the improvement of biodiversity and rural development, guaranteeing the interests of the nearly seven million European hunters and those of land administrators, and other actors in the rural area, reaffirming the importance of hunting as an activity with a social and economical impact in Europe.

Within the Intergroup the main issues in the competence of the European Parliament were approached: the management of fauna and flora, fishing, forestry, agriculture, biodiversity. In the European Parliament debates were held regarding the management of wild fauna, national and regional issues concerning biodiversity. The Intergroup pointed out to the members of Parliament the connection that must exist between the right of property and hunting right as an instrument of coordination and compatibility of different uses for the same space, the accountability of land owners in managing and preserving natural resources of land in order to ensure that the continuity of economic,

environment and social obligations is met, including the management of hunting and game.

The intergroup launched a document entitled **Manifest 2009-2014**, which presents the strategy in this field, underlining the relationship between ecological, economical and social objectives of hunting activities. The Manifest mentions the essential connection between management and maintaining biodiversity, respecting wild fauna, as well as the importance of cooperation in this field.

The *Nature 2000* guide, elaborated by the Intergroup, offered concrete answers to issues related to hunting, underlining the need to elaborate land management programmes.

The European Charter on Hunting and Biodiversity was elaborated in the year 2007 [6] with the contribution of the Intergroup within the European Parliament (FACE). In the Charter, the first principle underlines the role of a sustainable management, on several levels, capable of maximizing benefits in order to conserve wild fauna and society. In order to achieve this, it is mentioned that a crucial role is that of the nearest level in which the hunting activity is carried out and that the management structure of this activity must be as flexible as possible in order to adapt to biological, economical and social conditions by means of an adaptive management.

After the 80's more and more forest concession contracts were concluded with the private sector, as instruments of forestry policy in numerous countries, but sustainable management and maintaining economical efficiency were difficult to achieve [7]. Because of this, many European states manifested the need to enhance the capacity to conceive and control the execution of contracts [8].

Conceiving and managing contracts by government organisms, forest exploitation contracts and contracts for the acquisition of forestry services has become a permanent preoccupation, underlining the necessity of elaborating simplified and efficient administrative procedures. The experience acquired states that a determining role is that of drawing up contracts, by means of a high level of judicial expertise, depending on the precise objectives of the policy in this field and the institutions involved. Equally important is verifying the conclusion of contracts, through monitoring and control, field inspection, and the way the parties meet the conditions provided in the management contracts [9].

2 National provisions regarding the hunting activity

2.1 According to the **Austrian** Constitution, the hunting activity regulations fall into the responsibility of federal provinces. Each of these 9 provinces has its own laws in this matter and separate application norms; there isn't any federal law. For each province there is an association in place, and at national level there is a hunting federation, so that every holder of a hunting license is a member of this federation.

In principle, the hunting right belongs exclusively to the owner of the hunting land, with on condition that they acquire a "private hunting license". This is issued only to owners who own over 115 ha of undivided land (in some provinces 300 ha). If the owner holds a hunting license, they can hunt in that perimeter. Otherwise, they must hand over the perimeter and its management to an authorized person. The properties which do not meet private authorization conditions are united into the so called "associative hunting perimeters" in order to be leased. By this contract, tenants receive all rights and obligations which result from the hunting right. The owners (lessors) receive rent for the leased hunting right.

Hunting perimeters can be leased both to hunters, as individuals, as well as to a hunting association. Tenants must hold a valid hunting license.

2.2 In **Belgium** hunting is a secondary subject. It is carried out in limited perimeters: 25 ha in the north and 50 ha in the south of the Walloon region, as well as 40 ha in the Flemish area. In the region of the Brussels Capital hunting is prohibited. The right to hunt in the mentioned perimeters is exerted as follows: 13% by the owners of the respective land, 29% by the inhabitants of the perimeters, 36% by the members of the hunter associations and 22% by guests.

Hunting is regulated by norms at regional level.

2.3 In **Bulgaria**, according to the law regarding hunting and the protection of hunting wildlife, adopted on 2 August 2002, with subsequent amendments, the management of hunting activities and the protection of the hunting wildlife are the attribute of the Ministry of Agriculture and Forests. The hunting wildlife is divided in economic hunting regions, regardless of the form of property of the respective perimeters.

Hunter associations may request the administration body to grant the management and organization of hunting activities for a certain economical hunting region, based on commercial contracts. For the National hunters' association, the contract may be valid for 10 years at most.

2.4 The law regarding hunting (adopted on 6 May 1993 and amended on 28 January 1997) in **Denmark** states that the hunting right belongs to the owner of the respective perimeter, which they may lease to a third party for a maximum of 30 years.

2.5 Similarly, in **Finland** the hunting right belongs to the owner of the perimeter. They may lease the hunting right on their property to a third party.

Hunters are organized in hunting associations (clubs) which take up for rent perimeters of various sizes, in order to create an area large and uniform enough for the hunting activity. Presently, there are approximately 4,500 associations which took up for rent perimeters between 2,000 and 10,000 ha. Associations are responsible for the hunting wildlife and for organizing the hunting, the holder of the property right on the land having the obligation to supervise these activities.

The forest fund is 63% private property, 24% state property, 9% the property of certain companies and 4% other forms of property.

The Finnish service for forests and parks is the holder of the hunting right in the perimeters which are the property of the state (located in the east and north of Finland). The service leases the hunting right in smaller perimeters to local hunter associations, while in large perimeters (1,000 to 250,000 ha) hunting is carried out based on a licensing system, by selling 1 to 7 day permits.

2.6 **France** occupies one of the top positions regarding the scale and diversity of the hunting activity, together with Spain and Italy. In France there are approximately 1.5 million hunters (according to a 2008 survey), and in this field the financial flow in the past years was €2.3-2.5 billion, a sector which has offered an average of 23,000 jobs. In order to better understand French regulations regarding hunting, it is necessary to know the structure, its organization and way of function.

Organizational structure of the hunting activity. The organization of the hunting activity is done according to the provisions of the Environment code

(art.L421-1 – art.L421-19 – legislative aspect and R421-1 - R421-54 – regulation aspect). The environment code has included provisions of the 2000 Hunting Act, with subsequent modification in 2001, 2003, 2008, 2010. The Environment code [10], implemented by the law regarding the protection of nature [11], in Volume III, Title II, from art.L420-1 to art.L420-4, refers to the hunting activity. This part of the Code addresses the issues of hunting organization, of the National Hunting and Wild Fauna Service (ONCFS), department and inter-department hunter federations (from art.L421-5 to art.L421-11), regional federations (art.L421-13) and National hunters' federation (art.L421-14).

At a **central level**, the hunting activity is coordinated by the Ministry of Ecology which elaborates regulation texts, monitors their application, mainly by means of the department prefect and the National Hunting and Wild Fauna Service [12]. The Ministry of Ecology participates in the elaboration and application of community texts, controls and guides scientific research missions, ensuring the connection with other national partners. *The National hunting and fauna council* is a consultative body of the ministry which authorizes important legislative projects in this field.

The National Hunting and Wild Fauna Service [13] is subordinated to both the Ministry of Ecology and the Ministry of Agriculture and its missions are: monitoring territories and environment and hunting police, ensuring technical support and counselling to administrations, territorial communities, ensuring the development of hunting, according to the requirements of sustainable development, organization and carrying out of the exam for the granting of the hunting permit (art.L421-1). The Service has 1,800 agents, 6 directions and a general secretariat, 10 interregional delegations, one scientific council, one administration council, 62,150 ha allocated to 33 reservations.

The National hunters' federation coordinates and represents apart from national public bodies department, inter-department and regional hunters' federations (art.L421-14). All these associations are controlled by the Ministry of Ecology. The National hunters' federation sets the minimum level of contributions for hunters and manages a fund for "equalling the financing of federations, covering expenses related to the payment of damages", but also for the prevention of damages. It determines annually, in the general assembly, the minimum national level of contributions which every member must pay as part of the departmental and inter-departmental federation. The hunting permit is considered valid only after the payment of royalties,

contributions and participations to federations. The National federation may modify some of the provisions of regulations at local level, regarding the payment of certain damages.

The National hunters' federation is a federal type organization, unique in Europe, which includes: 95 departmental or inter-departmental federations; 22 regional federations; 1,350 designated administrators and volunteers; 1,500 persons qualified in this field. This organizational structure has an important economical activity, around €2.3 billion and 23,000 jobs. Hunting is a very popular activity in France, with almost 1.5 million practitioners and it has a **strong associative character**, which is supported by 70,000 hunting associations.

In France, a special role is that of strategic planning at a central level and the decentralization of decision making.

At **local level**, the coordination of hunting activities involves the prefects of departments, who establish the data for closing and opening the hunting seasons, contribute to the elaboration of hunting plans, ensuring the control of hunting departmental federations. They base their activity on departmental directions for agriculture and forestry field.

Departmental and inter-departmental federations of hunters represent the interests of hunters at departmental level.

Regional hunter federations ensure the representation of hunters at regional level and are consulted by prefects of regions regarding the elaboration of *regional management guidelines for wild fauna*, elaborated by the coordination of regional environment directions.

In France, the basic structures of hunting activities are hunting associations, established ever since 1901. Presently, at a basic level, accepted Communal hunting associations are in place, with an activity of over 45 years. Hunters' communal associations were established by the 10 July 1964 Law (*Loi Verdeille*) with the aim of achieving a better hunting organization, financial support, a good hunting management and rationalization for the administrative organization of this field. The basic idea of this law was the *regrouping and territorial management of the hunting activity* of existent associations. This law was consolidated by the Law regarding the protection of nature dated 10 July 1976 and by the "hunting laws" from 2000, 2003 and 2008. In France there are over 10,000 communal hunting associations accepted (ACCA), created with the prior consent of local representative bodies (General council, Chamber for agriculture,

hunters' federations) [14]. At communal level, they need the prior consent of 60% of the owners who represent 60% of the communal land area.

Chapter III of Title II of the Environment code stipulates the conditions for granting and using the hunting permit, and licenses (art.L423-22). In art.L423-27 there are provisions related to the granting of hunting royalties.

Ways of granting the right of management for hunting wildlife by owners to administrators. Chapter 2 of the Environment code refers to the **hunting land** (art.L422-2), with a special mention regarding the land on which accepted communal hunting associations activate (ACCA), defining the path to their establishment and the goal of their activity (from art.L422-10 to art.L422-20).

The communal association is defined on a well delimited territory, open to hunters, with only an association possible per commune. In order to support the development of wild fauna, the association must retain 10% of the land as a hunting reserve. For taking into account the right to security of people, land situated on a radius of 150 m around localities or 7 ha is not part of ACCA territory. Beyond a certain area for personal goods, private persons can conserve their right of hunting and can constitute territories for hunting administration which are not subordinated to the ACCA. A non hunter land owner may oppose to the practice of hunting on their land, according to their convictions.

Land belonging to the state, railways and traffic ways are not included in the ACCA territory. Rural land are in continuous transformation and the ACCA adapts to it. The ACCA functions under the authority of the prefect, and their decisions are subject to their approval.

Exploitation of forests in the property of the state. According to the Forest code, the policy of economical, ecological and social capitalization of the forest is an attribute of the state (art.L2). Exploitation of hunting by lease can be performed: without direct custody, after a public bid; by lease of licenses for the management of estates and by mutual consent, with the approval of ONCFS and the ACCA. Due to the importance of management, the duration of contracts is between 6 and 12 years.

According to Law dated 29 October 1990, with subsequent modifications, the administration may grant priority to the previous administrator (art. L137-3 Forest Code).

Regarding the state forests (*forêt domaniale*), the National Forest Service has decided, since 2004, that the tender book must include a programme related to the modalities of hunting administration. Applications are examined depending on hunting

references of the applicant, ways of exercising hunting, rules for ensuring security, level of hunting per species, ways of monitoring animal populations and their impact on the environment, equipment used etc..

In France, the hunting right is a real-estate right – attached to the possession of the land. The right to hunt on the land belongs to:

- the owner or he who benefits from the legal right of use or the administrator;
- a group of owners or holders of the property right, in the shape of an association or other private form provided in the convention.

Ways of granting the right to manage hunting wildlife to owners. The Forest code, Title III (Forests and land), Chapter VII, Section 2, refers to the “Exploitation by hunting”. In the case of forests in the property of the state, hunting takes place, generally, by leasing land after a public bid or by concession of licenses or direct custody (*location amiable*), in the case of land for which no administrator was found during the bid. Also, licenses or leases can be granted, without adjudication, in certain conditions: if the authorities grant the exploitation of the hunting right and considers it to be necessary for the good technical or financial management of the estate (in the aim of ensuring the security of users, and consolidating security against fires), a better control of hunting numbers or for limiting damages.

According to art.R137-8 of the Forestry code, granting leases (*locations amiable*), without prior adjudication, is reserved to:

- the National Hunting and Wild Fauna Service for the arrangement of reservations;
- accepted communal and inter-communal associations of hunters, under certain conditions (especially when they do not possess their own land);
- scientific and technical bodies carrying out wild fauna management experiments;
- management of neighbouring territories, with an area of over 60 ha.

Article R137-14 of the Forestry code stipulates that the competent authority in the exploitation by hunting of state land is the National Forest Service. It can conclude conventions with owners, for a period of at least 10 years. It can be leased the hunting right of neighbouring owners, with the approval of the prefect.

The National Forest Service or the directions of agriculture departments may directly assign hunting land, 6 months prior to the expiry of rent contracts. The rent price is set by taking into account mean price of rent for other forests and comparable land in

the same region or neighbouring regions, belonging to the state, the price charged in other territorial communities or even the price in the private area. The technical and financial conditions of the rent are notified to the applicant 30 days in advance.

Assigning licenses by which the hunting right is granted will be done for a period of one year. Licenses are granted individually and by name. They may also have a collective character, mentioning the identity of each beneficiary.

The license granting contract stipulates land limits, hunting modalities, days during which hunting will take place, number of game per species.

Modifications to the hunting act of 2008 have redefined and modernized the role of communal associations of hunters, taking into account their role in managing spaces and species. According these laws, hunting royalties are directed to the National Hunting and Wild Fauna Service. The land owners and communal associations usually conclude lease contracts in which the real estate number of lots rented and the duration of the contract are mentioned (3, 6, 9 years). These agreements may be verbal or written.

In conclusion, one can notice that legislative modifications focused on adapting structures and modalities of management, so that the role of different partners are better clarified (public bodies and associations) [15]. They have allowed the evolution of the state's way of intervention, clarifying the level of competence for each echelon. During the last period there has been a strong decentralization of the management of hunting spaces. Management was delegated mainly to departmental hunter federations, considered to be capable of underlining the role of local actors. Decentralization represented an essential means of "global" management of wild fauna, being accompanied by the decentralization of procedures. During the last period, the state and prefects, in particular, had a special role.

The main characteristic of the hunting activity in France is the strong associative character, the associative system evolving in such a manner that hunter associations are consolidated and capable to adapt to new challenges.

In France, the hunting activity was addressed in a global context, in relation to society, the environment protection policy, capitalizing on cultural tradition and its economical resources.

Another characteristic element was the permanent connection of the hunting activity to the forestry management, agriculture and the preoccupation for conserving the quality of land. The major objective in managing fauna was always

to maintain biodiversity, the environment becoming an essential component in setting up and managing land [16].

In the field of hunting the principles of sustainable management were re-established, the management of wild animal fund being, at the same time, unitary, rational and ecological. A sustainable hunting activity required mainly hunting within well established limits, according to local and regional plans, and national strategies. Sustainable management of wild fauna required going from an administrative logic to an objective logic, a permanent measurement of the results.

The management of contracts focused on establishing clear relationships between the government and the contractor, with an eye for fulfilling contracts, fast identification of problems, protecting public interests. For this purpose, according to the requirements in this field, expectations were compared to the concrete results of contracts and solutions were identified for solving issues, correcting the initial situation. Experience has shown that the activity of inspecting exploitation contracts is a necessary measure which should be initially stipulated in the contract. For the optimum management of contracts there was the need for important resources, a numerous and qualified personnel and very well elaborated procedures for the control and cancellation of contracts with issues. In order for the sustainable management to be applied very precise criteria and indicators were necessary, which were contained in reliable certification systems.

According to legal provisions, the relationship between the owner and the communal hunting association depends on the fact that the hunting right is connected to the property right and only the owner can decide on it. The owner can conclude a rent contract with the communal association, stating the appropriate remuneration and the conditions which must be met by the hunters.

Sustainable management of the hunting wildlife in France. According to art.L420-1 of the Environment code, sustainable management of the fauna and habitat patrimony is of general interest. The practice of hunting, an activity which is related to the protection of the environment, and which has cultural, social and economical aspects, contributes to the establishment of balance between game, environment, human activities, ensuring the equilibrium between agriculture, forest and hunting. Thus, hunting contributes to the balanced management of the ecosystem and participates in the development of economical and ecological activities in the natural environment, especially in rural areas

[17]. Hunting undoubtedly participates to the sustainable management of land, in that hunters will not be able to carry out their activity unless they meet requirements related to ecology, properties, cultures and agricultural crops. The government and hunting police oversee this activity with the aim of defending the general interest.

Chapter IV of the Environment code regulates the hunting practice, issues related to the protection of game, hunting time, ways and means of hunting, as well as the trading and transport of game. The management of hunting activity is the object of Chapter V of Title II (from art. L425-1 to art.L425-5) which defines the hunting management and plan, specifying that departmental hunting federations contribute to highlighting the departmental hunting patrimony, the protection and management of wild fauna and habitats. They ensure the promotion and support of hunting and the interests of the association members, but they are also responsible for preventing damages and ensuring the compensation funds in case of damages. Chapter VIII mentions the penal dispositions – punishments applied in the case of breaking regulations in force (art. L428-1).

In 2007 the obligation for hunters to apply the regional guidelines regarding agricultural and forestry management was introduced. They represented the guide for actions carried out by territorial administrations, with the aim of protecting wild fauna and habitat (by applying the Convention regarding biodiversity and the “Habitats, fauna, flora” Directive). The law concerning rural area development has brought new elements in this field and has contributed to the setting up and sustainable development of land. The regional framework organizes the management of rural space, together with the other national regulations.

Law no. 2008-1545 dated 31 December 2008 for the improvement and simplification of the hunting right, called the “*Poniatowski law*”, modified the Environment code and introduced certain necessary measures related to the departmental scheme of hunting management, certain financial measures (15 euro permit stamp duty for young people with the age of 16-18 years old, decreasing to half the royalties level for one hunting season for those who obtained it in the first year).

The departmental hunting management scheme is elaborated by the departmental hunting federations together with the owners, administrators and land users. By this scheme, the legislator has determined these actors who have an impact on natural spaces to work together for an optimum hunting management. The participation of owners

and administrators in the elaboration of the departmental scheme has offered the possibility to overcome conflicts regarding land use and has facilitated the provision of security.

According to the 2008 law, the departmental hunting management scheme must include: the hunting plan and management plan; measures regarding the provision of security for hunters; actions to improve the hunting activity; setting the number of harmful animals; contribution per animal, designed to provide an allowance to agricultural owners whose cultures or crops have been affected. The level of contribution is set by the general assembly of the departmental federation, at the proposal of the administration council. In case contributions do not fully cover the volume of compensations, these will be supplemented by the federation.

Ever since 2002, an **Observatory for wild fauna** was created, a scientific data base to ensure the coherence of hunting activity regulations, decentralization and de-concentration of decisions at regional or departmental level (by the management department scheme).

Another sustainable management modality for hunting wildlife, applied ever since 1951, was the placement in hunting reservations of hunting land, for a period of 50 years (which can be renewed), by voluntary association of the owners, communal associations, private hunting societies or belonging to hunters.

In the year 2010, which was declared the year of biodiversity, the French Parliament re-discussed the role of hunting in the management of species and spaces, in the aim of preserving biotypes and so that hunters respond to the mission of acting according to the general interest and the balanced management of biodiversity [18].

From a judicial point of view, a shift took place in the implementation of fauna protection, from taking restraining measures in contracting, by the conclusion of contracts designed to put into practice the protection of wild fauna and habitats. In this context, relations between farmers and the other actors of the rural space, including hunters evolved into contracts. These contracts concluded between a public or private operator and farmers were also made in the field of wild fauna protection, between farmers and hunting associations (to ensure food), with the technical and financial support of hunter departmental federations.

The process of contracting faced difficulties due to the complexity of procedures. Subsequently, four contract levels were elaborated for which farmers

received remuneration depending on the obligations undertaken.

Agricultural and environmental measures represented a way of creating a commitment on the part of the farmer, for a period of 5 years, to observe the environment protection measures, on well defined areas, against an annual remuneration. These measures involved the elaboration of tender books, different from region to region, which were subscribed to sustainable agriculture contracts. In case of breach, financial sanctions were provided (reimbursement of premiums).

The tender books for agricultural and environmental measures were elaborated at a regional level to promote specific environment protection practices. At times, the remuneration had to be increased (even by 20%) due to costs which were higher than the previous evaluation. The tender books and remunerations were authorized and accepted by the European Commission. Decree 2033-774 dated 20 August 2003 stated that obligations must be those provided in the regional guidelines, attached to the National rural development plan.

Presently, "Agricultural and fauna" [19] networks are used, partnerships carried out between the agricultural and hunting worlds, networks with national coverage for the promotion of agricultural practices in the benefit of fauna. In the year 2009 there were 300 agricultural exploitations within networks and in 2010 almost 1,000.

The National Hunting and Wild Fauna Service (ONCFS) reinforced its cooperation with all public and private partners who are involved in its area of competence: hunter federations, professional organizations of farmers and forest owners, research institutions, public bodies for the protection of environment, constabulary and national police. The ONCFS concludes with them framework conventions for cooperation and operational agreement protocols.

2.7 In Germany, article 75 of the Constitution states that the federation may issue framework dispositions in the competence fields of provinces. Hunting is one of these fields, which means that provinces, even if they legislate in this field, must observe the provisions of the Federal Act regarding hunting, with the numerous subsequent modifications.

In Germany, the norm which regulates hunting is the 1976 Federal Act, which states that the Ministry of Alimentation, Agriculture and Consumer Protection and the Federal Ministry for

Environment, Nature Conservation and Nuclear Safety are the administration authorities in this field. The German hunters' association groups associations from the 16 provinces.

According to Federal Act, the hunting right belongs to the owner, as is the case in Austria. Nevertheless, the property right does not automatically imply the right to hunt. The owner may lease the hunting right or may prohibit hunting on their land.

Federal Act states that the land must have an uninterrupted area of at least 75 ha. Land smaller than 75 ha is grouped in common hunting perimeters, of at least 150 ha, and their owners automatically become members of the hunting cooperative thus established. This form of cooperation receives the hunting right and has the obligation to administer the land, in the name of the owners, who lose the right to hunt on their territories. As a general rule, the hunting cooperative may lease the hunting right to third parties. The person who obtains the lease must have hold a hunting license for the last three years.

2.8 In Italy, article 117 of the Constitution states that in certain fields, hunting included, the region adopts the legal norms which cannot be in contradiction with the national interest or that of other regions.

Law no. 157 dated 11 February 1992 regarding the protection of wild fauna represents the framework law which must be observed at regional level. According to this law, wild fauna is the patrimony of the state and is protected in the interest of the national and international community and, therefore, the practice of hunting is authorized by meeting the wild fauna protection conditions. Most of the natural spaces are the object of planning which allows a programmed management of hunting.

The state holds the right to hunt and to grant the hunting right to people who request it and who meet the criteria provided by law. In principle, owners cannot oppose to hunting on their land.

According to law, the practice of hunting is limited to certain areas, an owner may, within 30 days since the publication of the regional plan, address to the competent administration that their land not be included. If it is approved, they must signal the interdiction.

In addition, the law provides that the region must transfer in the account of a land owner, included in the plan, a financial contribution.

According to the 1992 law, regions elaborate geographical hunting plans.

The total of natural spaces must be divided into:

- protection areas for wild fauna, which represent 20-30% of the area considered to be a non-hunting area;

- private hunting exploitations created on demand (15% of the area) where hunting is reserved;

- hunting land, in the rest of the area where regions manage hunting in a programmed way. These territories must be, according to possibilities, divided by natural criteria, regardless of the financial structure. Each province has at least two territories.

In principle, each holder of a hunting permit, has the right to access, after a request has been made, a single hunting territory, in order to make hunters more responsible.

The planning of territories is established at province level, but remains in the competence of the region. The final decision is taken by the regional authorities, in collaboration with the Ministry of Agriculture and Environment, and the interested parties (hunters, farmers, associations for environment protection).

2.9 In the Netherlands, the old hunting act of 1954 was repealed and replaced by the Law dated 25 May 1998 regarding flora and fauna, but it was very restrictive, limiting the species which may be hunted down to 6. A new law was elaborated in the year 2000, a law which left the local authorities with the mission to solve the problems in this field.

The hunting right belongs to the land owner. Nevertheless, the property right does not automatically bring about the hunting right, as the hunting act provides a minimal size for the hunting land (a minimum area of 40 ha and a width of 300 m). In the case of land renting, the hunting right belongs to he who rented.

The hunting right may be leased by contract to a hunter or hunting association.

The holder of the hunting right who does not to exert this right has the obligation to maintain game on the land at "a reasonable level". Otherwise, they must prevent damages caused to their neighbours by the game which lives on their land. In this aim, they may consult with a commission which deals in damages caused by game.

An owner who has given up their hunting right and who does not take measures to limit damages, may be obliged to pay compensations to victims. These litigations are resolved by ad-hoc

commissions for damages. They subordinate themselves to civil courts when the administrative procedure fails. After 2001, these commissions have been replaced by the *Fauna* fund.

In the Netherlands there is only one category of hunting land, private ones being inexistent. There are lands where hunting is practiced freely and small hunting lands which can be commercially exploited.

In the past years hunters have organized in game management units, associations with hunting rights, associations holders of hunting rights, which regroup properties with the aim of creating hunting domains (with areas of around 5000 ha).

Each domain is managed in a programmed manner, managing units working in collaboration with local organizations for nature protection, police, communes.

2.10 In Portugal, Law no. 30 dated 27 August 1986 regarding hunting and Law-decree no. 136 dated 14 August 1986 have set the judicial framework for the support, exploitation and conservation of hunting resources.

Subsequently, they were repealed by Law no. 173 dated 21 September 1999 regarding the general rules of hunting, which came into force in the year 2000. Article 3 recognized the right to non-hunting as an attribute of the owners, beneficiaries of use and those who have rented, to prohibit hunting on their land or to prevent having a hunting area already established – when they do not have a hunting permit.

They nevertheless have the obligation to pay for the damages caused by game to neighbours.

In principle, hunting can be practiced on any terrain, except where hunting constitutes a hazard for the health and peace of individuals or produces considerable damages, except for closed terrains, gardens, parks adjacent to homes or cultivated terrains.

The government defines the hunting reservations. The hunting right belongs to the state which grants the right to private individuals, in various ways. When these are not applied through local administration, their exploitation is taken up by the state and especially hunter associations.

The hunting right in these areas is reserved to individuals who have an area management agreement.

In principle, establishing such an area is done with the agreement of the owners (apart from those with enclave terrains, which are considered of public utility).

According to the 1999 law, the national territory was divided into:

- areas where hunting is prohibited (due to overcrowding, military area, communications, beaches etc.);

- areas where hunting is carried out conditionally: either with the owner's consent, or only during certain periods of the year when land is not cultivated;

- hunting areas where there are 4 categories of areas: national areas, associative areas, touristic areas and municipal areas.

National areas are established for an undetermined period, mainly on public terrains, administered by services of the Ministry of Agriculture and are accessible to all hunters who pay royalties.

Social areas are established for an undetermined period, preferably on public terrains or belonging to cooperatives. They are administered in common by the services of the Ministry of Agriculture, local communities and hunter associations. These areas are accessible, free for a limited number of hunters, selected by procedures which ensure the principle of equality (for example, by drawing lots).

Associative areas are established preferably on private terrains or belonging to cooperatives. Their area is limited to 3000 ha. Their exploitation is handed over to hunter associations for a limited period, and the number of hunters admitted onto the area is set so as to provide more than 30 ha in every area.

Touristic areas are usually established on private terrains or belonging to cooperatives. They conciliate the exploitation through hunting with touristic services. Their exploitation is provided by the state, local communities or by a society, their assignment being made for a limited period of time. The practice of hunting is free for any hunter who pays royalties.

Municipal areas were created by the 1999 Law and were implemented on public or private terrains, endorsed by communes, in order to be accessible to a large number of hunters, especially owners or resident concessionaries of the commune and then the other hunters.

2.11 Romania is a country with a large biodiversity and a high percentage of intact natural ecosystems. Its territory is covered with large areas of forests and is crossed by numerous migration routes. The high level of ecosystem diversity and geographical localization is reflected in the rich flora and fauna

diversity, represented by over 3500 plant species and over 30,000 animal species.

In Romania all forms of relief are equally represented; mountains, hills and plains with specific ecosystems, covering approximately equal areas. Hunting ground with a minimum area of 5,000 ha for plains, 7,000 ha for hills and 10,000 ha for mountains, are often grouped in hunting complexes with large areas, for an integrated and sustainable management of species with hunting interest.

In interwar Romania game belonged completely, both the sedentary and migratory one, to the owner of the land where it could temporarily be found. With the sole amendment that the owner, even if not a hunter - member of the Romanian General Union for Hunters - could not practice hunting, having to lease this right to those who had that quality, and implicitly, the necessary hunting permit. In the case of smaller properties of up to 100 ha, the contract was not concluded directly with the owners, but with the city hall, the rent being sent to the local budget in order to be used in common interest works.

After 1947, with the promulgation of a new law in the field of hunting, adapted to the new social and economical organization of Romania, the principle has changed. Game has passed without exception into the property of the state, the holders of land losing all rights over it.

According to the regulations which followed, the hunting wildlife of Romania was divided in units for hunting management, called hunting grounds. Their administration was ensured exclusively by the ministry who is in charge of the forestry activity. The actual management of hunting grounds was assigned though, based on a contract, to hunting associations, but only on approximately 2 thirds of the hunting area of the country. The ministry responsible for the forestry activity retained for direct administration, according to the model taken from the east, the most representative hunting grounds, called Special Hunting Households. These equalled the rest of almost 1 third of the hunting area of the country.

That is how the hunting activity was organized in December 1989, with a slightly higher percentage of the specially administered funds (37%), at the expense of the area in use by the hunting associations affiliated to the Romanian General Association of Hunters and Anglers (A.G.V.P.S.) in Romania (63%).

The social and economical changes that took place in our country after this date, as well as the necessity to align the Romanian legislation to the

new international regulations in this field, required the modification of the content of Law no. 26/1976 regarding the economy of game and hunting.

The new law entitled the Law for hunting wildlife and the protection of game, no. 103/1996, stated, as principles, the following:

- the national hunting wildlife - containing game which was and remained a public asset, as well as its biotope, whose component, the land, can be a public or private asset - was divided in units of hunting administration, called hunting grounds, with areas of at least 5,000 ha for plains, 7,500 for hills and 10,000 ha for mountains, which continued to ensure a relative stability of game and the premises for an efficient hunting culture;

- game, the main component of the national hunting wildlife, continued to remain a public asset, which protected it from the whims of agricultural and forestry land owners; they were nevertheless compensated with 81% of the value of the hunting wildlife administration, seen that they admit the game and practice of hunting in the areas that belong to them;

- the ministry whose responsibility was the administration of the forestry fund and hunting wildlife was in charge of the strategy in this field, regulation of the activity, verifying that the normative acts in this field are applied and the provisions of lease contracts are met; also, it was in charge of monitoring the evolution of the game numbers and the centralized approval of annual crop quotas;

- the management contracts of hunting wildlife could be concluded for a minimum of 10 years, by the central public authority in the sector and hunting associations together with the National Forest Administration, the latter two having the contractual obligation to conserve the game numbers at a certain level and in a certain structure, established by this authority through research institutes as being optimum for the biotope;

- hunters, Romanian or foreign, could administer hunting wildlife only if they were organized in hunting associations and only if they were qualified in this sense having passed a hunter's exam organized by a national commission, after a minimum of one year of theoretical training and practice in this field;

- the number of hunters was limited depending on the area of the hunting wildlife, and attaining the quality of hunter could be done strictly within the limit of available seats in each hunting organization; the amount of 60,000 hunters corresponded to the area and hunting potential of the hunting wildlife accepted for administration by hunting associations;

- hunting is practiced only by hunters, mainly with the aim of maintain the agricultural, forestry and hunting balance, as well as for conserving the vigour and quality of game; secondly, hunting is also practiced with a social purpose, and also for material gains resulting from it.

The law elaborated based on the principles mentioned were at the same time consolidated by the provisions of International conventions in this field, this being the reason why it had a protectionist character and ensured an efficient and democratic framework for the coordination of the hunting activity.

Just that, after only 10 years, (according to an unofficial custom started after 1990, stating that after every 10 years any important law must be replaced), this law was also repealed by Law no. 407/2006 regarding hunting and the protection of the hunting wildlife [20]. In fact it represents a compilation of Law no. 103/1996, which keeps several of the provisions concerning the administration and management of hunting fauna, as well as the provision regarding the large area of hunting grounds, which enable a continuous sustainable management of this fauna.

According to the present law, the objectives and measures formulated are consistent with the observance of the following principles:

- game is a public asset of national and international interest;

- the state is the administrator of the national hunting wildlife;

- the hunting grounds are organized according to all land categories, regardless of owners and have the following areas: a minimum of 5,000 ha for plains, 7,000 ha for hills, 10,000 ha for mountains.

- eliminating the barriers between Romanian citizens and the citizens of European Union member states, by eliminating differences related to citizenship for access to hunting resources;

- granting compensations evenly and operatively for damages caused by game;

- subordinating hunting to the purpose of conserving the biodiversity of wild fauna and maintaining an ecological balance;

- organization and carrying out of hunting activities according to international conventions for the protection of wild fauna, which Romania is part of and has adhered to.

Presently, granting the right to manage the hunting fauna is carried on hunting grounds, by the administrator (central public authority which is in charge of forestry and which ensures the administration of hunting fauna) by direct assignment or public bid, for hunting grounds

unassigned directly, for a period of 10 years. In the sense of the law, the management of the hunting fauna represents the activity of sustainable management of hunting fauna based on hunting grounds, carried out by administrators based on management contracts, and the hunting wildlife is the hunting administration unit created from the hunting fauna and land area, regardless of its category, regardless of the owner and thus delimited so that it ensures a stability as big as possible for the hunting fauna within it. Hunting grounds do not include inhabited areas, or the strictly protected area and tampon area within the "Danube Delta" Biosphere Reservation.

Direct assignment is carried out for the following categories of hunting grounds:

a) hunting grounds for which owners, individuals and/or legal persons, including administrative and territorial units, individually or in an association legally established with the aim of proposing the administrator of the hunting fauna, are proof that they own lands which represent over 50% of the area of each hunting wildlife. This type of assigned is done in favour of the administrator proposed by the owners of the lands, for a period of 10 years;

b) available hunting grounds will be attributed, under the provisions of the law, to hunting organizations under certain conditions, state learning institutions with study disciplines such as game and hunting and state institutions whose activity is the scientific research in the hunting field, as well as the administrator of forests in the public property of the state, as established administrator who is assigned, upon request, 200 hunting grounds of the ones they are administrating and were not attributed directly and 50% of the rest of hunting grounds of the ones they have administered and have remained unattributed;

c) hunting grounds which have not been attributed under the above conditions, for which the state is the owner of the real-estate fund amounting to an area larger than 50% of the area of each hunting wildlife.

The main novelty brought about by Law no. 407/2006 is represented precisely by this modality of attributing the right for the administration of hunting fauna, which for the first time in more than 60 years is granted to land owners who own at least 51% of a hunting wildlife who are attributed directly its administration.

Thus, owners of the real-estate fund may exploit, in the sense of obtaining material gains, directly, a hunting wildlife which overlaps their property, if they meet the legal requirements for being hunting wildlife administrators and effectively attain the

management of that respective hunting wildlife. Indirectly, when not meeting the requirements or not wanting to benefit directly, real-estate owners receive material gains in the shape of periodical monetary benefits, calculated based on the area of land hold as part of the hunting wildlife from the amount which represents 81% of the management fee for the hunting wildlife (16% transforming into state budget revenue and 3% going to the environment fund).

Regarding the species admitted for hunting, they will be hunted within the numbers, in the places, during the periods and by the means accepted by law, observing regulations related to the authorization, organization and practice of hunting.

Hunting is practiced only by hunters who cumulatively meet the following requirements: hold a firearm hunting permit; hold authorizations issued by the administrator; hold a B type firearm permit; hold a compulsory insurance against accidents. Hunting permits can be permanent (issued to citizens with domicile or residence in Romania by hunting organizations who administer hunting grounds) and temporary permits (issued to expats or foreign citizens who are hunters in their domicile country and who have come to Romania for hunting activities).

The hunting authorization issued by the administrator gives the right to its holder to hunt specimens for which the authorization was issued, on the land included in the respective hunting wildlife, regardless of the property type and its owner.

According to law, hunting in hunting grounds which include protected natural areas is allowed only by observing the conditions provided in the hunting management plans and in the management plans for the respective natural areas.

The current hunting regulations in Romania is highly contested, especially by the representatives of the National Administration for Forests and the Romanian General Association of Hunters and Anglers who witness their revenue decreased in the benefit of private owners of lands where hunting grounds are based. The academic society is also hostile as it believes that by transferring a large part of the hunting grounds administered by forestry units and hunter associations to land owners, experienced and traditional administrative structures with appropriate equipment will be replaced by new management structures, with no expertise and no necessary specialists, but with the desire to obtain immediate economical results based on the respective hunting management. In addition, diversifying the ways of managing hunting wildlife

could create a supplementary pressure on game populations by the “border effect”, and by the tendency of every administrator to collect game in the proximity of neighbour limits [21].

2.12 In Spain, article 148-1-11 of the Constitution stipulates that all autonomous communities can assume competencies in the hunting field, thus after 1990 the majority of autonomous communities have elaborated their own laws.

The 1970 national law sets the minimum limit to 250 ha for small game and 500 ha for large game. Minimal area is doubled in the case of associations. Hunting land is divided into two categories: *free access land for any hunter*, which can be public or private and *special regime land* which is agreed by the competent community administration, at the request of the owner.

In certain areas, local communities can create hunting areas, granting administrative hunting right by contract or adjudication or lease, with the aim of facilitating the access of local hunters.

Private land and social land represent approximately 80% of the total hunting land.

The 1970 law provided another land category, placed under the supervision of the local administration. It was established at the initiative of the local communities or farmer associations on public or private land, provided by their owners (with an area of 500-1000 ha).

The administrator of such a land grants the hunting right by contract, adjudicated for a period of at least 6 years for small game and at least 9 years for large game.

According to the 1970 Law, it is possible to mandatorily include owners with hunting enclaves.

3 Conclusions

The hunting right is connected, in the majority of European states, to the property right, but in a series of countries (Bulgaria, Italy, Portugal) this right belongs to the state of local communities.

The relationship between the hunting right and property right is very complex. Generally, in Europe, where the hunting right is connected to land property, there is a minimum area which gives the right to constitute a hunting wildlife and to lease this right by the owner or for the owner to practice hunting themselves.

In Austria, France, Germany, the Netherlands, Spain the right to hunt belongs to the owner, on condition that they own a minimal area (115 ha in

Austria, 75 ha in Germany, 40 ha in the Netherlands, between 250 and 500 ha in Spain), and in Romania the hunting right belongs to individuals or legal persons, owners of land which is part of hunting grounds.

As a principle, in Europe, owners have the right to oppose hunters on their land, although legal provisions in this respect are varied. In Germany, owners of smaller land are automatically members of a communal association, whom they transfer the right of administration in their name. The experience of past decades has underlined the role of land owners and administrators in favour of conservation policies and sustainable development of natural resources.

In Bulgaria, Italy and Portugal the hunting right belongs mainly to the state. The game territories are divided in territories recognized by administrative procedures. The state directly exploits the hunting right and, on the other hand, it can transfer the latter to private individuals.

In Germany, Italy, hunting is managed regionally, but even if German provinces legislate this field, they have the obligation to observe the national laws which represent the framework law. In Spain, autonomous communities, although having elaborated their own hunting acts, permanently relate to the 1970 National Act.

The balance between the interest of owners who administrate land (that of obtaining profit by agriculture, forestry, hunting, fishing, agro tourism etc.) and that of hunters (who want a large diversity and density of the game) is based on the observance of property rights, which is the guarantor of sustainable management.

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