

## **Ukraine: Returning the Protected Status to Natural Areas in the Lviv Region**

### **Synopsis**

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This case study was chosen to show that alternative dispute resolution can be a more effective use of time. In this particular case it saved a forest that might have otherwise been cut down during the long period of administrative or judicial process. It was easy to find an agreement and take small steps forward when the parties in the conflict met and worked to solve the dispute.

In this case the media was a powerful tool for stimulating negotiations. Moreover, the media played the role of informal or “virtual facilitator” and did not let the more influential party dominate and ignore the other stakeholders. The media also contributed to increasing the involvement of different stakeholders in the discussions, kept the local community informed and reflected its position.

### **Background of the conflict**

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In December 1999 the Lviv Regional Council decided to remove the status of several protected areas. For some areas they removed the protected status of part of the territories and redrew their borders (about 4,000 hectares in 11 protected areas altogether). As most of the protected territories were forests, the decision opened the doors for commercial exploitation of the forests (i.e. timber cutting) by Lvivlis, Lviv’s regional state forestry company.

This decision was made after a proposal of Lvivlis and was supported by the Lviv Regional Department of Environment and Natural Resources.

The Law on the Natural Reserved Fund of Ukraine defines the procedure for the cancellation of the status of protected areas as well as the procedure for changing their borders. This procedure of cancellation requires an interested person (applicant) to submit an application to the Ministry of Environment and Natural Resources or its local department (in case of local protected areas). This application should include scientific conclusions and a description of the reasons for the cancellation. If the ministry or its local department (in this case, the Lviv Regional Department of Environment and Natural Resources) approves the application, it has to prepare the project documentation and submit the documents to the decision maker (in this case, the Lviv Region Council), which adopts the final decision.

Lvivlis in collaboration with the Lviv Forestry University prepared the scientific conclusions for the cancellation of the protected status of several areas. For some areas scientific conclusion were missing. As a main reason for the cancellation of the protected status it was stated that the forest is losing its economic value and tree felling is needed to maintain its healthy condition.

Several environmental NGOs and scientists protested the decision, which they considered illegally without a scientific basis. Since 1999, several administrative actions and media-campaigns have taken place without a satisfactory outcome.

Biodiversity issues and other environmental issues were not properly taken into account. Some areas that lost protected status were valuable not only from an economical perspective but primarily for their unique nature and habitats of endangered species. The Kornalovychy reserve, for example, was established in the 1970s to protect old oak tree forest (now about 200-210 years old). It is also a habitat of “red book” species.

The first protests and actions started in 2000 immediately after the decision was passed. They were organised mainly by NGOs in the form of media campaigns. Scientists had not realised the full ramifications of the decision (as at that time it was only on paper and there were no visible consequences), or they chose not to participate openly in the conflict (scientists specialising in forest issues often need to collaborate with the Lviv Forestry University and Lvivlis). The problem was that accusation from the media that failed to refer to prominent scientists had little result, so the media ran a few scandalous stories and did not follow up.

Only when Lvivlis started cutting old oak trees in the former Kornalovychy reserve did some scientists raise their protests against the cuttings in the media and demand that the territory of the former reserve be protected again.

To start legal actions NGOs needed the support of scientists as well as the documents related to the decision-making process. The public interest environmental law organisation Ecopravo-Lviv (EPL) spent approximately two years collecting documents and evidence that the decision was illegal, violating the procedure and without proper scientific grounds. EPL made the legal analysis of the adopted decision and violations of the decision-making process and presented it to the competent authorities.

After the publication and the analysis, two inspections from the Ministry of Environment and Natural Resources were carried out but the result was not satisfactory. However, in 2002 the Lviv Regional Department of Environment and Natural Resources announced that they are considering the idea of returning the protected status to the Kornalovychy reserve.

In June 2005 the journalist NGO WETI organised a press tour and about 40 people (journalists, scientists, governmental officials, environmental prosecutors, NGOs and foresters) visited the former Kornalovychy reserve, where they had an opportunity to see huge, recently cut, old oak trees. They also visited another former reserve and found timber cuttings as well. The legal analysis of the decision of December 1999 and violations made during the decision-making process in 1999 was disseminated at the press tour.

There was wide representation from different national and local media (TV, newspapers, and radio) and this story was broadly disseminated by the media.

The next day after the press tour the environmental prosecutor began inspecting recently visited areas.

The main goal of the tour was to raise public awareness, place pressure on the local government, and demand a reversal of the 1999 decision and a return of the status to the valuable natural territories. It was also important to show the damages that had been already caused and introduce people (including scientists and decision makers) who were responsible for the illegal decision.

It was also a good opportunity and time because the new Ukrainian government declared that development of the ecological network and increase of the territories of the protected areas was one of its priorities.

## **Parties and stakeholders to the process**

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### **State companies and public authorities**

**Lvivlis** (the state forestry company) was interested in commercial use of forest resources, responsible for the protected areas that were established on their territory.

**The Lviv Region Council** cancelled the status of several protected areas in December 1999. When the decision was made as well as when the negotiation process was started, the Environmental Committee of the Council consisted primarily of foresters and people involved in forest management.

The Environmental Committee of the Council is part of the Lviv Region Council. The council is an elected body and creates committees in different areas. It is believed that foresters were quite powerful and took positions on the Environmental Committee at the time of the conflict.

**The Lviv Regional Department of Environment and Natural Resources** is responsible for the protection of nature. They supported the proposal of Lvivlis in 1999. (The head of the department worked for Lvivlis before he was appointed as head of the department).

### **Environmental NGOs and other interested stakeholders**

**WETI** is interested in the protection of nature. They want the 1999 decision cancelled and the status of the natural territories reinstated. WETI collaborated with an expert ecologist and a public interest lawyer who provided legal advice.

**Ecopravo-Lviv** (EPL) is a public interest environmental law organisation interested in the protection of nature that also wants the decision cancelled and the status of the natural territories reinstated. EPL is responsible for the legal analysis of the 1999 decision and pointed out violations that were made throughout the decision-making process of 1999.

The **Nature Protection Society** is interested in the protection of nature and wants to return protected status to the former Kornalovychy reserve.

**Scientists** of the **Lviv Forestry University**, the **Lviv National University**, and the **Institute of the Ecology of the Carpathians (the Academy of Science of Ukraine)** prepared a document stating the scientific basis for the cancellation of the protected status. Others were opposed it and carried out research at the Kornalovychy reserve and applied to the Lviv Regional Department of the Environment and Natural Resources to re-establish the area's protected status.

### **Journalists**

Journalists played an important role in raising public interest in the issue and published NGO viewpoints widely in local and national mass media.

## **Conflict resolution process**

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### **Why this tool was used**

First of all, some participants proposed to organise a round table discussion bringing together stakeholders to discuss the cancellation of the decision of December 1999 and the future status of the valuable natural territories. Participants in the press tour also signed a petition to the Lviv Region Council asking to cancel the Decision of December 1999 and return the status to the valuable natural territories. The petition was disseminated during the meeting of the Lviv Region Council. The head of Lvivlis (who is also head of the Environmental Committee of the Lviv Region Council) agreed to hold a joint round table on this issue.

### **Description of the process**

It was agreed that WETI — initiator of the press tour — and Lvivlis – as the entity responsible for the management of the forests and the initiator of the Decision of the Lviv Region Council of 1999 — would arrange the round table and the participation of different stakeholders.

Originally, the round table was supposed to be held on “neutral territory” in the Museum of Nature, but the museum facilities were not available for the planned date. Instead, the round table was held in July 2005 in the conference hall of Lvivlis. At the meeting, representatives from all stakeholders were present except for representatives of the Lviv Regional Department of the Environment and Natural Resources.

At the beginning of the meeting, the head of Lvivlis, who also represented the Environmental Committee of the Lviv Region Council, took the initiative of facilitating the meeting, but WETI proposed that the meeting could be facilitated by representatives from both sides. Both sides agreed, and a WETI representative and the head of Lvivlis facilitated discussions. Such facilitation was more efficient as foresters sometimes tended to lead discussions to more general issues while NGOs kept their attention on the status of the protected areas.

During the round table, Lvivlis did not accept that the 1999 decision was passed in violation of the law, but some journalists and NGOs insisted that the officials and scientists who prepared the decision were personally liable. Additionally, representatives of NGOs requested a moratorium on tree cutting in the former protected areas until an agreement on their status could be reached.

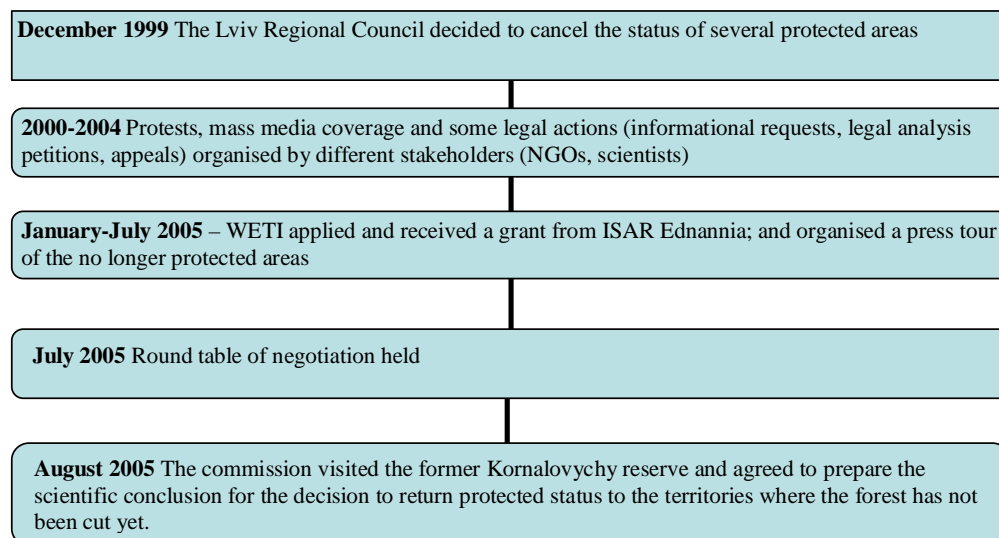
The scientists who argued for the cancellation of the protected status tried to defend themselves and explain reasons for their conclusion. Some other scientists supported the idea of establishing new protected areas on the territories which had not lost their value after the cuttings.

After the speeches and arguments of different participants of the round table a consensus was reached on the former Kornalovychy reserve. All agreed that part of it had to be protected.

Everyone also agreed that a commission composed of different stakeholders needed to be created. Such a commission was created taking into account proposals from different

stakeholders, and it included 15 members (eight scientists, two NGOs, one journalist, one legal expert, two representatives from Lvivlis, and one representative from the Lviv Regional Department of Environment and Natural Resources). It was also agreed that the main goal of the commission was to inspect the areas and propose decisions on some areas that would regain protected status.

**Table 1 — Timeline of the process**



### Output of the process

During the roundtable a consensus was reached: the former Kornalovychy reserve should be protected.

As a result of the process, the **commission from different stakeholders** was created with 15 members (eight scientists, two NGOs, one journalist, one legal expert, two representatives from Lvivlis, and one representative from the Lviv Regional Department of Environment and Natural Resources) in order to inspect the areas and propose decisions on some areas that would regain protected status.

In August 2005, the Commission visited Kornalovychy and agreed to prepare a scientific conclusion in favour of returning protected status to the forest territories that had not been cut yet.

### Related actions and campaigns

- Media campaigns before and during negotiations;
- Press tour of the area;

- Petition to the Lviv Regional Council, sent by NGOs;
- Petition to the Ministry of the Environment sent after the press tour;
- Legal analyses and other related documents given to the environmental prosecutor and other participants of the press tour by organisers (WETI) of the event.

## **Final outcome of the case**

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In August 2005 the Commission visited the former Kornalovychy reserve and agreed to prepare a scientific conclusion recommending the return of protected status to the forest territories that had not been cut yet. Also the draft conclusion was prepared by scientists and sent to other stakeholders. The conclusion proposed that a new protected area in the Kornalovychy forest be created. Lvivlis agreed and established a protected area there.

The final decision has not been adopted yet. It has to be approved by the Lviv Regional Department of the Environment and Natural Resources first and submitted to the Lviv Regional Council. The estimated end of the negotiations is autumn 2005.

The conflict has not been completely solved yet as NGOs insist on protected status for other areas cancelled in the 1999 decision.

## **Conclusions**

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In the case of the Kornalovychy reserve the alternative dispute resolution method was a useful tool. Administrative or judicial process might take so long that by the end there might not have been any forest left to protect. Before negotiations began, about 25-30 percent of the Kornalovychy forest had been cut.

The process of negotiations took much less time than administrative or judicial processes and Lvivlis agreed to a moratorium on forest cutting during negotiations, which also preserved trees.

One of the main obstacles during negotiations was that one of the stakeholders – Lvivlis – had a major influence over other participants. Most of the scientists who played a crucial role in the process preferred to keep good relations with Lvivlis, which controls most of the forests in the region, as well as with the head of the Environmental Committee of the Lviv Region Council. Some of them received some funds for their work from the local budget or from Lvivlis. On the other hand, scientists did not want to lose face and credibility. In this case, the openness of the negotiation process to the media as well as publicity helped to overcome this obstacle.

One of the main lessons learned was that publicity in some cases is a very powerful tool for stimulating negotiations. In particular, it is quite efficient in countries with high levels of corruption. In this particular case, when WETI organised a media campaign and the conflict received publicity, the governmental authorities (including Lvivlis) became interested in negotiations.

Moreover, the media played the role of informal or “virtual facilitator” and prevented one of the most influential parties from dominating the negotiations at the expense of other stakeholders. The media also contributed to the involvement of different stakeholders

outside of the negotiating room to the discussion, and informed and reflected the position of the local community to protect the forest.

In case of the Kornalovychy reserve, the result of negotiations was satisfactory for the parties.

### **Comments of participants in process**

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*“We understand that if the Decision of 1999 was admitted as illegal several people responsible for it might be punished. But our main priority was to save valuable natural territories as soon as possible because every day of delay cost us a decrease in territory of old growth oak forest. Even if some people were punished we would never be able to return trees that were cut. We had a compromise on the Kornalovychy reserve but still need to find a solution for other protected areas that lost their status. I believe that publicity and mass media played a crucial role in this process.”*

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