

CODUL SILVIC ȘI DREPTUL DE PREEMȚIUNE

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Abstract:

In the new regulations of the Forest Code, the preemption right is stipulated by article 45 par. 5 stipulating that the state has preemption right over the purchase of forests that represent enclaves in the state public property forest fund or are bordering to it, at equal prices and terms.

By correlating the two texts, some differences occur for the new regulation comparing to the old one.

We think that only a lawful interpretation covers the lack in the new Forest Code which does not mention that the exercise of the preemption right focuses on forced sales beside the willing ones, as art. 52 in the old Forest Code adding more to the regulation.

Another appreciation that has to be made is the fact that the old regulation takes into consideration the exercise of the preemption right at sale, while art. 45 paragraph 5 in the new regulations mentions the exercise of the preemption right by the state when purchasing forests.

We think that the new regulation is less inspired and could allow the seller to appreciate that it does not have any obligations in the circumstance of alienating forests provided by art. 45 and that the procedure of preemption right has to start from the state, as preemptor to the forests owner, because it uses the term of forests purchase and not forests sale, as we think to have been correctly used by art. 52 in the Law no. 26/1996.

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