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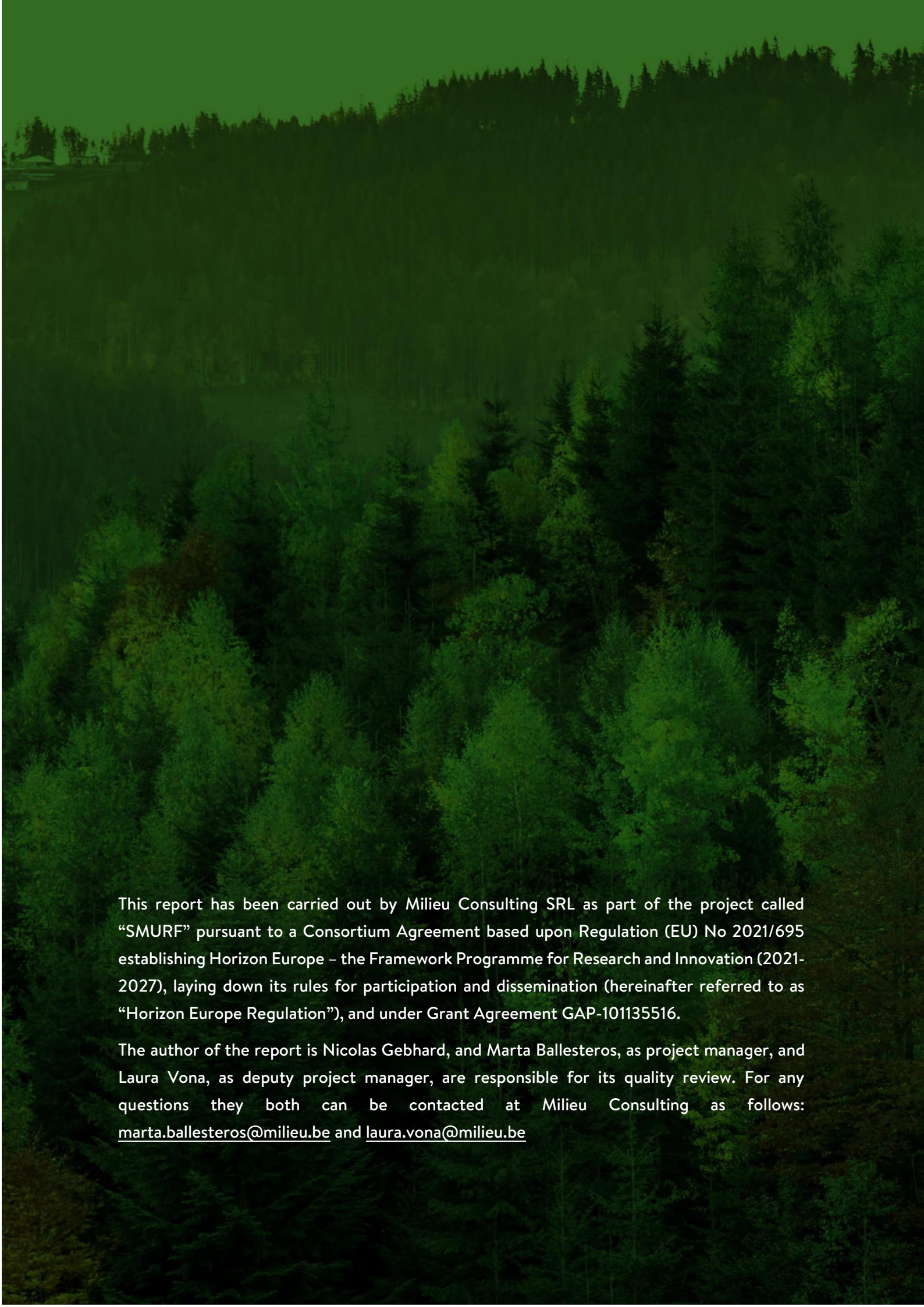
Legal and regulatory framework applicable to Small Forest Owners and Sustainable Forest Management

Country Fact Sheet
Germany

SMURF
THE FOREST OWNERS' PROJECT

Grant Agreement GAP-101135516.
June 2025

Funded by
the European Union



This report has been carried out by Milieu Consulting SRL as part of the project called "SMURF" pursuant to a Consortium Agreement based upon Regulation (EU) No 2021/695 establishing Horizon Europe – the Framework Programme for Research and Innovation (2021-2027), laying down its rules for participation and dissemination (hereinafter referred to as "Horizon Europe Regulation"), and under Grant Agreement GAP-101135516.

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Table of Contents

Executive Summary 4
Introduction 6
1. Basic legal and regulatory framework applicable to small forest owners 8
1.1. Context to the legislation 8
1.2. Basic legal instruments 8
1.3. Basic regulatory framework 9
2. Governance and institutional framework 10
2.1. Distribution of competences between the State and Regional authorities. 10
2.2. Key representation organisations of the forest sector 15
3. Forest land ownership structure 17
3.1. Data on national forests ownership structure 17
3.2. Definitions of forest ownership in your country 18
3.3. Forest ownership types in your country 20
3.4. Proof of ownership: Land registry and Cadastre 21
4. Rights and obligations: forest owner/holder and forest contractor 23
4.1. Overview 23
4.2. Legal rights of the forest owner/holder 24
4.3. Limitations to the rights of forest owner/holder 26
4.4. Forest owner/holder obligations and requirements. 29
4.5. Forest manager/contractor obligations 31
5. Forest Management plans 33
6. Sustainable forest management. 37
6.1. Sustainable forest management definition and forestry practices 37
6.2. “Closer-to-nature” guidelines and practices 41
6.3. Climate change and Forest carbon absorption 42
7. Forest land market 42
8. Forest companies, Forest incentives and taxation. 46
Forest Companies 46
Forest incentives and taxation 46
9. Enforcement: Forest control and penalties. 48
10. Conclusions 50
10.1. Legal or regulatory barriers for SFM 50
10.2. Legal or regulatory gaps in national forest legislation 51
National experts on forest legislation and references 53

Legal and regulatory framework applicable to Small Forest Owners and Sustainable Forest Management (SMURF) - WP2

Executive Summary

Germany's legal framework for forests, particularly for small forest owners, is primarily governed by the Federal Forest Act (BWaldG) and complemented by state-specific forest laws. The BWaldG sets the overarching principles for sustainable forest management (SFM), biodiversity conservation, and public interest obligations, while state laws provide detailed regulations for implementation. Accordingly, the report provides examples from the Bavarian Forest Act (BayWaldG) to illustrate the practical implementation of Germany's legal and regulatory framework for forest management. Bavaria's status as the federal state with the largest forest coverage and the predominance of small-scale forest ownership - 98.8% of private owners manage properties smaller than 20 hectares - make it an ideal case study for examining how federal principles are applied in practice.

Germany's forests cover approximately 11.5 million hectares, with ownership distributed among private individuals (48%), federal states (29%), public corporations (20%), and the federal government (3%). Ownership patterns vary significantly by federal state and are legally documented through the Land Register (*Grundbuch*), ensuring clarity on rights and obligations. Cadastral registration is compulsory, with changes in ownership or usage reflected in the registry.

Forest owners, holders, and managers are subject to obligations under the BWaldG and respective federal state laws. These include mandatory reforestation of cleared areas, sustainable harvesting practices, biodiversity conservation, fire prevention, and restrictions on clear-cutting. At the same time these forest actors are entitled to financial support for activities aligned with SFM goals, such as afforestation and biodiversity enhancement. Compliance is monitored by state forestry authorities, with penalties for violations.

Sustainable forest management is identified in Section 1 of the BWaldG as a core objective and is further advanced through voluntary certification systems like PEFC, FSC, and Naturland. These certifications exceed minimum legal requirements, encouraging forest owners to adopt higher ecological and social sustainability standards.

Economic incentives play a key role in promoting SFM. Small forest owners in Germany may benefit from several targeted tax reliefs – including partial income tax exemptions, flat-rate deductions for small non-bookkeeping forestry enterprises, income-averaging and calamity-related tax reductions – while subsidies are primarily channelled through the national GAK programme supporting agriculture, forestry and rural development. On a Länder level, both, the Federal and Bavarian Forest Act, establish that the right to subsidies may be granted for measures that are consistent with the Act's principles. Taxes, including property and income tax, apply to forest land and related revenues. The forest land market is regulated to prevent fragmentation,

with sales and divisions requiring approval under the Property Transfer Act. Despite these safeguards, fragmented ownership remains a significant barrier to effective forest management.

To address the challenges outlined, this report recommends enhancing financial incentives for small forest owners to adopt SFM practices, ensuring harmonization between federal and state regulations to create a consistent framework, and expanding mandatory certification schemes to close gaps in sustainability standards. Additionally, cooperative structures and targeted programs should be leveraged to mitigate forest fragmentation and improve management efficiency. Aligning national policies and laws with European directives and policies will further solidify Germany's leadership in sustainable forestry.

Introduction

This is a Horizon project with a strong research approach. The name of the project is 'Sustainable Management models and value chains for small Forests' known as SMURF with the reference HORIZON-CL6-2023-CIRCBIO-01.

The general objective is to provide an analysis of the legal and regulatory framework in EU Member States applicable to small forest owners (SFO) in their practices aiming to Sustainable Forest Management.

The specific project objectives are:

1. Prepare a report on the legal framework on SFO for most EU Member State.
2. Identify the basic legislation regulating SFO and the specific articles setting rights and obligations and *provide the links* to those basic and articles.
3. Define the rights and obligations for SFO in EU Member States.
4. Define the legal framework for the economic activity of SFO in EU Member States.
5. Identify the **main legal limitations or barriers** for SFO in EU Member States.
6. Identify **needs for legal reforms and propose specific legal improvements**, when considered necessary.
7. Prepare a comparative analysis of the legal framework SFO in the EU Member States.

These guidelines provide the basic information for the elaboration of the report on legal framework applicable to Small Forest owners/holders. It is complemented by a pilot report showing as a model to show the level of depth of the analysis.

When using the term "legal framework" we consider:

- The organizational model of forestry and the forest value chain.
- The institutional framework, identifying the distribution of competences among the different administration levels (European, national, regional and local) and administration sectors (agriculture and rural development, environment, industry, interior, economics and others).
- The regulatory framework, identifying laws and regulations that affect forestry and the forest value chain. The key articles that set basic rules for forestry will be explicitly referred and translated into English.

The analysis will be focused on factors that affect the participation of forest holdings in the market. There is a particular interest in identifying barriers, obstacles and measures or instruments that have had a significant positive impact in the present functioning of the forest markets.

The analysis will describe the nowadays situation of the framework, although a contextual and short reference of the origin and evolution of the framework when needed for a good understanding will be included.

The analysis will consider the national legislation and will only refer to the regional legislation as a way of example to confirm the national legal framework or to show that in some regions the situation may be rather different.

The analysis will take into consideration the forest sector legislation, but not only, because the main barriers and legal limitations might be derived from the inadequacy of other sectoral laws (societal, fiscal, real state and ownership, cadastral, insurances) or requirements in some pieces of national environmental legislation. It will refer to Nature or Biodiversity Conservation law and to the Environmental Impact Assessment legislation while it might also refer to relevant agriculture legislation.

1. Basic legal and regulatory framework applicable to small forest owners

1.1. Context to the legislation

In Germany, forest ownership is constitutionally protected, yet it carries inherent social obligations and is subject to an array of legal constraints, including forestry, nature conservation, water and soil protection, and hunting laws. These regulations are predominantly enforced by the federal states. Thus, Germany's legal and regulatory framework for small forest owners is governed by a combination of constitutional provisions, national forestry laws, federal state legislation, as well as by national policies and strategies. This framework is designed to protect forest resources while ensuring sustainable management, balancing the interest of forest owners with environmental and societal objectives.

1.2. Basic legal instruments

Fundamental Law provisions

The primary legal instrument in Germany is the **German Basic Law**[1] (*Grundgesetz*, GG), which establishes the framework for protection individual rights and freedoms and delineates the distribution of powers between the federal government and the individual states (*Länder*).

Several provisions within the GG are relevant to understanding the regulatory framework governing small forest owners. The relevant provisions will be examined in detail throughout the report under the relevant sections.

National laws

The **Federal Forest Act**[2] (*Bundeswaldgesetz*, BWaldG) provides the overarching legal framework for forest conservation and management, which is further supplemented by specific state laws. The full list of relevant forest state laws is found below, section 2.1. The Act aims to:

- Preserve forests for their economic value and environmental significance, including ecosystem health, climate regulation, water management, air quality, soil fertility, landscape preservation, agriculture, infrastructure, and public recreation;
- Promote sustainable forestry practice; and
- Balance the interest of the public with those of forest owners.

This Act serves as the primary legal foundation for this report.

1 Basic Law for the Federal Republic of Germany of 23 May 1949 (Grundgesetz der Bundesrepublik Deutschland vom 23 Mai 1949).
2 Federal Forest Act of 2 May 1975, Act on the conservation and promotion of forests (Gesetz zur Erhaltung des Waldes und zur Förderung der Forstwirtschaft vom 2. Mai 1975).

Additionally, the **Federal Nature Conservation Act**[3] (*Bundesnaturschutzgesetz*, BNatSchG) and the relevant state conservation laws include regulations that might impact forest owners. The Act's preamble outlines the objectives and principles of nature conservation and landscape management, emphasizing alignment with the European conservation program Natura 2000. Under the Act, all individuals, including small forest owners, are encouraged 'to contribute to the realization of the objectives and principles of nature conservation and landscape management to the best of their ability'.

Lastly, when it comes to the sale and appointment of a usufructuary of a forestry-related piece of property, the **Property Transfer Act**[4] (*Grundstücksverkehrsgesetz*, GrdstVG) is relevant. This Act aims to ensure the continued existence of agricultural, forestry and wine-growing businesses, as well as to maintain the agricultural structure for the purpose of environmental protection and to ensure the population's food supply.

The relevant provisions of the above-mentioned Acts will be examined in depth throughout the report.

1.3. Basic regulatory framework

The **German Forest Strategy 2050**[5] (*Waldstrategie* 2050) seeks to preserve Germany's forests and their ecosystem services for individuals, society, nature, and the economy, while adapting them to changing climate conditions. By 2030, the strategy emphasizes strengthening private forest ownership through measures that promote sustainable management and the provision of ecosystem services. Recognizing the importance of diverse forest ownership - including private, corporate, and state-owned forests- the strategy includes initiatives to maintain this variety.

To achieve these goals, the strategy proposes reviewing and enhancing forestry support programs and financial relief for private forest owners, ensuring they are effective in addressing future challenges. Cooperative structures are also encouraged within private and corporate forestry sectors, promoting stable and efficient organizational models that benefit small forest owners. Additionally, alternative cooperation tools, such as promotion of forestry cooperatives or state and federal dialogue platforms, are developed to assist small private owners in accessing resources for sustainable forest management through subsidies. New compensation mechanisms acknowledge and reward private forest owners for ecosystem services they provide, including biodiversity conservation and climate protection, recognizing their contributions to the public good.

The Strategy is crucial for the future development of small forest owners and will be examined in detail throughout this report.

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3 Federal Nature Conservation Act of 29 July 2009, Act on nature conservation and landscape management (Gesetz über Naturschutz und Landschaftspflege vom 29. Juli 2009).

4 Property Transfer Act of 28 July 1961, Act on control of land transactions (Gesetz über Maßnahmen zur Verbesserung der Agrarstruktur und zur Sicherung land- und forstwirtschaftlicher Betriebe vom 28 July 1961).

5 Bundesministerium für Ernährung und Landwirtschaft, Waldstrategie 2050 – Nachhaltige Waldbewirtschaftung – Herausforderungen und Chancen für Mensch, Natur und Klima, September 2021, pp. 46 – 49.

2. Governance and institutional framework

2.1. Distribution of competences between the State and Regional authorities.

- **According to the legal framework, what are the relevant competences and responsibilities regarding decisions on forest management and forest management practices at the different State level (national, regional, municipal) in your country?**

Legal background

According to Article 74 GG, the federal government and the federal states share the concurrent legislative powers in specific areas, including n. 15, concerning 'the transfer of land, natural resources, and means of production to public ownership or other forms of public enterprise', and n.29, relating to the 'protection of nature and landscape management'.

Under this structure and based on Article 72(1) GG the federal states have the legislative authority to legislate in forestry matters as long as, and to the extent that, the federal government does not exercise its legislative powers in this field. Even where the federal government has enacted forestry legislation based on the legislative competence mentioned above, the federal states retain a right to deviate through state legislation.

The Federal Forest Act, while establishing the overarching legal framework for a uniform forestry law across Germany, primarily provides only foundational principles, leaving room for development through federal states legislations. Notably, the Second Chapter of the Act, covering forest planning and conservation, is not directly applicable federal law but rather serves as framework provisions for the federal states under Section 5 BWaldG.

Consequently, the federal states retain significant autonomy in forestry legislation, particularly within the general scope of forestry law. However, if a federal state legislates beyond its authority and creates a rule conflicting with federal law, the federal legislation prevails, overriding the federal state provision. This principle, established under Article 31 GG, applies to all federal statutes, including framework provisions under Section 5 BWaldG.

National competences

The federal government's competencies and responsibilities in forest management are defined by the Federal Forest Act. As outlined above, legislative powers in this area are shared between the federal government and the federal states. However, with the enactment of the Federal Forest Act, the federal government has established foundational legislation that limits the state's legislative authority to supplementing or elaborating upon its provisions rather than contradicting them.

Section 1 BWaldG establishes the federal government's overarching goals and principles for forest conservation and management. This provision sets a unified framework for sustainable forestry practices, within which the federal states must align their own regulations and policies.

Chapter IV of the Federal Forest Act sets the regulations for the financial support of forestry as well as forest monitoring. **Section 41(3) BWaldG** requires the federal government to report to

Parliament on forestry matters. **Section 41(4) BWaldG** establishes the principle of co-financing for federal support in forestry. This provision mandates that, following Germany's federal structure, forestry funding is administered by the federal states, not directly by the federal government. The federal states distribute the funds to eligible applicants, while the federal government reimburses a percentage of these expenses, provided the Länder comply with the framework plan guidelines (GAK). The same co-financing principle applies to EU support, which also requires adherence to European regulations. Despite the obligatory language in Section 41(4) BWaldG, this provision does not grant the federal states an enforceable right to federal co-financing, given the programmatic nature of Section 41 BWaldG. This support emphasizes a balanced, collaborative approach without creating a direct legal entitlement.

Lastly, **Section 41a BWaldG** provides the legal foundation for a nationwide forest inventory (*Bundewaldinventur*) every ten years. This inventory includes data on forest area, tree species, stock, usage, and growth. This data serves as a basis for forestry policy decisions, sustainable forest management, and meeting international reporting requirements. The responsibility for the forest inventory is split between the federal states and government. The federal states conduct additional surveys based on regional needs beyond the federal sampling framework.

For completeness, it is also essential to consider the relevance of the **Federal Nature Conservation Act** (BNatSchG). **Section 3 BNatSchG** establishes that the authorities responsible for nature conservation and landscape management are those designated under state law or, where specified, the Federal Agency for Nature Conservation. These authorities hold the responsibility for ensuring compliance with the Act's mandate and enforcing nature conservation and landscape management provisions, including in relation to forests.

Overall, the federal government establishes unified goals and principles for forest conservation and management, while the detailed implementation, administration of financial support, and monitoring responsibilities largely rest with the federal states. Although the federal government retains minor responsibilities, such as reporting to Parliament and co-financing with the Länder under structured guidelines, its primary function is to provide a cohesive framework that aligns state-level actions with national and international forestry objectives.

Regional competences

As mentioned in the sections above, the federal states retain most of the competences and responsibilities on forest management. Chapter II of the Federal Forest Act, specifically **Section 5 BWaldG**, establishes framework provisions that direct state legislatures to enact or amend state legislation to align with federal guidelines within a specified timeframe. These framework provisions require state legislation to:

- **Section 8 BWaldG**: Enact legislation to protect forest functions in the planning and implementation of public projects, ensuring that forest conservation is incorporated into broader development objectives;

- **Section 9 BWaldG**: Establish regulations for forest conservation, specifying that clearing or converting forest land for other uses is allowed only with the approval of the competent state authority;
- **Section 10 BWaldG**: Require authorization from a state-designated authority before initiating any afforestation activity;
- **Section 11 BWaldG**: Mandate reforestation or restoration obligations for all forest owners to promote sustainable forest management practices;
- **Section 12 BWaldG**: Designate certain forests as protection forests to safeguard areas of significant ecological value; and
- **Section 13 BWaldG:** Identify and designate recreational forests to support the social and recreational benefits provided by forests.

For completeness, the following table provides an overview of the forest laws for each of the 16 German federal states:

Table 1: Federal state forest laws

Federal state	*Forest law*
Baden-Württenberg	Waldgesetz für Baden-Württemberg (Landeswaldgesetz – LWaldG) in der Fassung vom 31. August 1995 (GBl. S. 685)
Bavaria	Bayrisches Waldgesetz (BayWaldG) in der Fassung vom 22. Juli 2005 (GVBl S. 313)
Berlin	Gesetz zur Erhaltung und Plege des Waldes (Landeswaldgesetz – LwaldG) in der Fassung vom 16. September 2004 (GVBl. 2004, 391)
Brandenburg	Waldgesetz des Landes Brandenburg (LwaldG) in der Fassung vom 2. Mai 1975 (BGBl. I S. 1037)
Bremen	Waldgesetz für das Land Bremen (Bremisches Waldgesetz – BremWaldG) in der Fassung vom 31. Mai 2005 (Brem.GBl. 2005, S. 207)
Hamburg	Landwaldgesetz Hamburg (LwaldG, HH) in der Fassung vom 13. März 1978 (HmbGVBl. S. 74)
Hesse	Hessisches Waldgesetz (HWaldG) in der Fassung vom 9. July 2013 (GVBl. 2013, S. 458)
Mecklenburg-western Pomerania	Waldgesetz für das Land Mecklenburg-Vorpommern (Landeswaldgesetz – LwaldG) in der Fassung vom 27. July 2011 (GVOBl. M-V S. 790)
Lower Saxony	Niedersächsisches Gesetz über den Wald und die Landschaftsordnungen (NwaldLG) in der Fassung vom 21. März 2002 (Nds. GVBl. S. 112)
North Rhine-Westphalia	Landesforstgesetz für das Land Nordrhein-Westfalen (Landesforstgesetz – LfoG) in der Fassung vom 24. April 1980 (GV. NW. S. 214)

Federal state	*Forest law*
Rhineland-Palatinate	Landeswaldgesetz (LWaldG) in der Fassung vom 30. November 2000 (GVBl. 2000, 504)
Saarland	Waldgesetz für das Saarland (Landesgesetz – LWaldG) in der Fassung vom 26. Oktober 1977 (Amtsbl. S. 1009)
Saxony	Waldgesetz für den Freistaat Sachsen (SächsWaldG) in der Fassung vom 1. April 1992 (SächsGVBl. S. 137)
saxony-Anhalt	Gesetz zur Erhaltung und Bewirtschaftung des Waldes, zur Förderung der Forstwirtschaft sowie zum Betreten und Nutzen der freien Landschaft im Land Sachen-Anhalt (Landeswaldgesetz Sachen-Anhalt – LWaldG) in der Fassung vom 25. Februar 2016 (GVBl. LSA 2016, 77)
Schleswig-Holstein	Waldgesetz für das Land Schleswig-Holstein (Landeswaldgesetz – LWaldG) in der Fassung vom 5. Dezember 2004 (GVOBl. Schl. -H. 2004 S. 461)
Thuringia	Gesetz zur Erhaltung, zum Schutz und zur Bewirtschaftung des Waldes und zur Förderung der Forstwirtschaft (Thüringer Waldgesetz – ThürWaldG) in der Fassung vom 18. September 2008 (GVBl. S. 327)

Lastly, under the provisions of Chapter IV of the Federal Forest Act, the federal states are responsible for administering and implementing forestry funding as outlined in **Section 41(2) BWaldG.** Additionally, Section **41a (2) BWaldG** mandates that the federal states collect data for the national forestry inventory.

For completeness, it is also essential to consider the relevance of the Federal Nature Conservation Act (BNatSchG). As mentioned under the national competences **Section 3 BNatSchG** establishes that the authorities responsible for nature conservation and landscape management are those designated under state law or, where specified, the Federal Agency for Nature Conservation. These authorities hold the responsibility for enforcing nature conservation and landscape management provisions and ensure compliance with the Act's mandate.

Overall, the Federal Forest Act grants federal states primary responsibility for forest management in Germany, positioning them as the main authorities in implementing forest conservation and management practices.

Local/municipal competences:

The Federal Forest Act does not specify the responsibilities and competencies granted to local or municipal authorities; these are instead outlined in the forest laws of the individual federal states. Consequently, the following analysis will examine these responsibilities and competencies using one federal state's forest law as an example. The example will be based on the Bavarian

Forest Act (*Bayrisches Waldgesetz*, BayWaldG)6 as this federal state has the largest forest area in Germany.

Article 27 BayWaldG designates the Bavarian State Ministry of Food, Agriculture, Forestry and Tourism as the highest forestry authority. In addition, local offices for Food, Agriculture, and Forestry serve as lower forestry authorities. These authorities are responsible under **Article 28 BayWaldG** for the following tasks:

- Conducting specialized forestry planning (Articles 5 and 6).
- Establishing nature forest reserves (Article 12a).
- Afforestation for public welfare (Article 16(5)).
- Contractual management and operations in corporate forests (Article 19).
- Creating forest management plans and evaluations for corporate forests (Article 19).
- Supporting forestry activities and cooperative organizations (Articles 19 to 22).
- Supervising forestry operations unless another authority is designated.
- Providing forest education and outreach.
- Rehabilitating protective forests as per Article 10(1).
- Conduct periodic assessments of forest regeneration and health.

Section 32 and 33 outlines the framework for forestry protection in Bavaria. Under **Article 32 BayWaldG**, forestry protection and enforcement is primarily the responsibility of police officers and designated forest protection officers, generally under the jurisdiction of the Länder. These officers are tasked with preventing, stopping, and assisting in prosecuting violations of laws intended to protect forests and facilities essential to forest operations from unauthorized actions by third parties as laid down in **Article 33 BayWaldG.**

According to **Article 37 BayWaldG** the power to issue forest-related ordinances, such as designating protected forest or recreational forest is vested in local district administrative authorities (*Kreisverwaltungsbehörden*). These ordinances are issued in consultation with the relevant lower forestry authority to ensure consistency with local forestry policies and in compliance with the procedural requirements set forth in **Article 38 BayWaldG.**

Under **Article 40 BayWaldG** the Bavarian State Ministry for Food, Agriculture, Forestry, and Tourism oversees forestry associations and related activities under the Federal Forest Act. The Ministry is responsible for implementing provisions of the Federal Forest Act relevant to forest associations and may issue regulations to delegate these responsibilities to subordinate authorities.

Overall, as mentioned before, while the Federal Forest Act establishes broad principles, the specific responsibilities and competencies for forestry management are defined by each federal state's forest laws. The Bavarian Forest Act exemplifies the decentralized approach established

6 Bavarian Forest Act of the 22 July 2005 (Bayrisches Waldgesetz (BayWaldG) in der Fassung vom 22. Juli 2005 (GVBl S. 313).

by the Federal Forest Act as it designates the Bavarian State Ministry of Food, Agriculture, Forestry, and Tourism as the central authority, supported by local forestry offices.

Forest coordination and advisory bodies:

The German Forestry Council (*Deutscher Forstwirtschaftsrat*, DFWR)7 serves as a key coordinating body and as the primary forest policy representative for the entire forestry industry in Germany. Representing approximately two million private and public forest owners, the DFWR brings together member organizations, including those overseeing private, state, and corporate forests, forest science institutions, and other forestry-related associations.

The DFWR's primary objectives include:

- Preservation, care, and sustainable management of forests.
- Ensuring the economic, ecological, and social functions of forests are maintained.
- Promoting the forestry sector and its enterprises.

2.2. Key representation organisations of the forest sector

1. **Forest owners**: Due to the provisions of the General Data Protection Regulation, accessing detailed information about small forest owners through publicly available sources on the internet is very challenging.

2. **Forest municipalities**:
   - City of Brilon
   - Augsburg municipal forest
   - Freiburg municipal forest

3. **Forest industry**:
   - Ilim Nordic Timber GmbH & Co. KG (this company is a significant player in the German timber industry)
   - Ante Holz GmbH (extensive forestry and timber operations)
   - TTW Waldpflege GmbH (company specialised in forest management and care)

4. **Forest clusters**: N/A

5. **Forest contractors**: N/A

6. **Forest professionals**: N/A

7. **Forest agents or rangers**: German Ranger Association (*Bundesverband Naturwacht e.V.*)

7 Find here the link to the Council.

8. **Forest sciences:** N/A

9. **Forest certification:**
    - PEFC (Programme for the Endorsement of Forest Certification) Germany
    - FSC (Forest Stewardship Council) Germany
    - Naturland

10. **Public enterprises:**
    - DBU Naturerbe GmbH

11. **Forest cooperatives:** *inter alia*
    - Waldgenossenschaft Wenden
    - Waldgenossenschaft Schwarzwald Breisgau

12. Other **Forest organisations**
    - *Arbeitsgemeinschaft Deutscher Waldbesitzerverbände* (AGDW) represents the interests of private, municipal and corporate forests vis-à-vis the German Bundestag and Bundesrat, ministries, industry, science and in committees of other associations

3. Forest land ownership structure

- **According to State statistics, what is the ownership structure of the forest in your country (at State level)?** Please include relative and absolute data of forest ownership types, including average size of public and private forests and the number of area of forests in each size category)

3.1. Data on national forests ownership structure

It is important to mention from the outset that based on the contract specifications the following analysis will not provide an in-depth examination of each federal state's unique ownership structure. Instead, it will maintain a more general approach, with specific examples included where relevant.

Germany's forests cover approximately 11.5 million hectares (32% of the total area of Germany), with ownership divided among private individuals, state governments, public corporations, and the federal government. About 48% of forest land is privately owned, 29% is held by federal states, 20% belongs to public corporations (primarily municipalities), and 3% is owned by the federal government.8 These ownership distributions, however, vary significantly by region. For instance, private ownership ranges from 25% in Hesse to 63% in North Rhine-Westphalia, with private forests generally more common in rural, sparsely populated areas. State-owned forests are particularly concentrated in regions like Mecklenburg-Western Pomerania and Saarland, where they account for 41% of forested land, compared to just 13% in North Rhine-Westphalia. Public corporation forests, largely owned by municipalities, are most prominent in Rhineland-Palatinate (46%) and least so in Brandenburg (7%) and Saxony-Anhalt (8%), typically showing a higher proportion in densely populated regions.9

The ownership structure of private forests in Germany is often highly fragmented. Nearly half of private forested land is divided among owners with holdings under 20 hectares, while only 14% belongs to estates over 1,000 hectares.10 These patterns have evolved over time and differ regionally, influenced by historical settlement, land inheritance, and the distribution of communal or agricultural land that was later afforested. Small private forest plots were often the result of agricultural settlements, inheritance divisions, or communal land divisions.11 It is estimated that Germany has around 1.8 million private forest owners, many of whom are organized into forestry associations to support sustainable management.12 However, a portion

8 Bundesministerium für Ernährung und Landwirtschaft, Der deutsche Wald in Zahlen – Ausgewählte Ergebnisse der vierten Bundeswaldinventur, Oktober 2024, p. 2.

9 Bundesministerium für Ernährung und Landwirtschaft, Der Wald in Deutschland – Ausgewählte Ergebnisse der vierten Bundeswaldinventur, Oktober 2024, pp. 11 – 12.

10 Bundesministerium für Ernährung und Landwirtschaft, Der Wald in Deutschland – Ausgewählte Ergebnisse der vierten Bundeswaldinventur, Oktober 2024, pp. 11 – 12.

11 Bundesministerium für Ernährung und Landwirtschaft, Der Wald in Deutschland – Ausgewählte Ergebnisse der vierten Bundeswaldinventur, Oktober 2024, pp. 11 – 12.

12 Bundesministerium für Ernährung und Landwirtschaft, Der Wald in Deutschland – Ausgewählte Ergebnisse der vierten Bundeswaldinventur, Oktober 2024, pp. 11 – 12.

of small forest owners—often due to distance from their land, urban lifestyles, or employment outside the forestry sector—may lack familiarity with sustainable forest management practices, especially as income from these forested areas is often minimal relative to their overall income.13 Given the extensive area covered by small private forests, providing professional forestry support to these owners is a significant focus of forest policies such as the above-mentioned German Forest Strategy 2050. In this Strategy the support measures include not only guidance on timber production but also assistance with forest maintenance for climate adaptation, damage prevention, conservation, and biodiversity.14

Recent changes in forest ownership have been modest. State and municipal forest holdings have remained nearly unchanged, while federal forests have decreased by approximately 14%, with around 55,000 hectares transferred to conservation organizations as part of the National Natural Heritage initiative.15 Small private forests have also decreased by 6%, while medium-sized private forests have increased by 10%, largely due to sales of fragmented plots and improved data on ownership structures.16

In summary, Germany's forest ownership structure is diverse and regionally varied, with private individuals, federal states, public corporations, and the federal government holding significant portions.

3.2. Definitions of forest ownership in your country

Please provide the definitions identified in the legislation applicable in your country following the guidelines shared with you.

- **Forest owner**

Section 4 BWaldG defines the term of 'forest owner' broadly to encompass two types of ownerships, namely forest owners (*Waldeigentümer*) and beneficial forest owners (*Nutzungsberechtigte*).

Forest owner is primarily understood to be the legal titleholder of the forest, regardless of whether this ownership is held individually, in co-ownership, or as joint ownership. Typically, the forest owner is also the direct possessor and primary beneficiary of the forest. However, the definition also includes indirect owners who have granted usage rights to others while retaining underlying ownership.17 In such cases, the forest owner retains their status under Section 4, even if they hold only indirect possession as defined by Section 868 of the German Civil Code (BGB).18

13 Bundesministerium für Ernährung und Landwirtschaft, Der Wald in Deutschland – Ausgewählte Ergebnisse der vierten Bundeswaldinventur, Oktober 2024, pp. 11 – 12.
14 Bundesministerium für Ernährung und Landwirtschaft, Waldstrategie 2050 – Nachhaltige Waldbewirtschaftung – Herausforderungen und Chancen für Mensch, Natur und Klima, September 2021, pp. 46 – 49.
15 Bundesministerium für Ernährung und Landwirtschaft, Der Wald in Deutschland – Ausgewählte Ergebnisse der vierten Bundeswaldinventur, Oktober 2024, pp. 11 – 12.
16 Bundesministerium für Ernährung und Landwirtschaft, Der Wald in Deutschland – Ausgewählte Ergebnisse der vierten Bundeswaldinventur, Oktober 2024, pp. 11 – 12.
17 Endres, E., Bundeswaldgesetz Kommentar, Erich Schmidt Verlag, 2022, p. 163.
18 German Civil Code of 2 January 2002 (Bürgerliches Gesetzbuch vom 2 Januar 2002).

Forest ownership may also manifest as possession. **Possession** is characterized as a person's factual control over an object, which must be intentional, outwardly apparent, and allow for a certain degree of influence over the object under Section 854(1) BGB. Direct possession occurs when an individual has immediate control over an object, while indirect possession exists when control is mediated by another person, who then holds direct possession (Section 868 BGB).

A **beneficial owner** under Section 4 refers to an individual who is authorized to use the entirety of a forest, based on an in rem right (such as usufruct) or a private law right (such as a lease). However, individuals holding only partial use rights - such as holders of limited forest use rights or hunting leases - do not qualify as beneficial owners under Section 4.19 A forest use rights holder is considered a forest owner within the meaning of Section 4 only if they also possess direct ownership of the forest, which commonly occurs in cases of usufruct or lease agreements.20

- **Forest holder**

This forest-related concept has no equivalent under German law. However, based on the definitions provided in the guidelines, this concept would correspond to the above-mentioned definition under German law of the owner that have granted usage rights to others while retaining underlying ownership (section 4 of the law), and holding only indirect possession.

- **Forest manager**

This forest-related concept has no equivalent under German law. However, based on the definitions provided in the guidelines, this concept would be included within the above-mentioned definition under German law of the forest owner with direct possession or beneficial owner with possession in rem right (such as usufruct) or a private law right (such as a lease).

- **Forest contractor**

This forest-related concept has no equivalent under German law.

- **Forest**

Section 2 BWaldG defines 'forest' using a tiered approach.

The primary definition, outlined in **Section 2(1) sentence 1 BWaldG**, broadly classifies any area containing forest plants as forest. The term 'plant' is derived from botanical science and broadly encompasses flowering plants, ferns, and mosses.21

Section 2(1) sentence 2 BWaldG expands the scope of this definition by including land associated with and serving the forest, listing examples such as forest roads and clearing areas.

19 Endres, E., Bundeswaldgesetz Kommentar, Erich Schmidt Verlag, 2022, p. 165.
20 Endres, E., Bundeswaldgesetz Kommentar, Erich Schmidt Verlag, 2022, p. 165.
21 Endres, E., Bundeswaldgesetz Kommentar, Erich Schmidt Verlag, 2022, p. 111.

Furthermore, Section **2(3) sentence 1 BWaldG** authorizes federal states to classify additional types of land as forest.

Conversely, **Section 2(2) BWaldG** imposes limitations to the definition by listing land that does not qualify as forest under the Act, such as 'short-rotation coppices planted for rapid timber extraction, where the rotation period does not exceed 20 years' (n.1) or 'areas used for agroforestry, where tree populations are also utilized for agricultural products' (n.2). Federal states are further empowered through **Section 2(3) sentence 2 BWaldG** to exclude certain areas - such as Christmas tree plantations, ornamental brushwood, and residential lots adjacent to homes - from the definition of forest.

In conclusion, the legal definition of forest reflects the notion of a permanent forest estate. Accordingly, this definition establishes forests as areas of land dedicated to sustainable forest management as the sole permissible land use.22

3.3. Forest ownership types in your country

- Please provide a **description of the types of forest ownership** (e.g. public forest, private forest) identified in the legislation applicable in your country. **Are there specific laws** for certain types of collective, communal, vicinal or neighbourhood forests?

Section 3 BWaldG defines the conventional categories of forest ownership – state forest, corporate forest, and private forest – as applied under the BWaldG and the corresponding federal state forest laws.

State forest is defined under **Section 3(1) BWaldG** as a forest owned exclusively by the Federal Republic of Germany, a federal state, or a public-law institution or foundation. Additionally, forest under joint ownership involving a federal state qualify as state forests if classified as such under the respective federal state laws.23

As defined by **Section 3 (2) BWaldG 'corporate forest'** relates to forest land held exclusively by municipalities, municipal associations, special-purpose associations, or other public-law corporations. The list of corporates provided by Section 3(2) BWaldG is not exhaustive; similar associations are also encompassed within this definition. This includes, for example, forest corporations (*Waldkörperschaften*) and forest and foliage cooperatives (*Wald- und Laubgenossenschaften*).24

Private forest is defined under **Section 3(3) BWaldG** as any forest does not qualify as state or corporate forest. This category primarily includes forests owned solely, jointly, or collectively by natural persons or private-law entities. It also encompasses forests held jointly or collectively by public-law institutions within the meaning of Section 3(2), as well as forested lands belonging to

22 Find more information here.

23 Endres, E., Bundeswaldgesetz Kommentar, Erich Schmidt Verlag, 2022, p. 158.

24 Endres, E., Bundeswaldgesetz Kommentar, Erich Schmidt Verlag, 2022, p. 159.

religious communities and communal forests, provided these do not fall under the designation of corporate forest pursuant to Section 3(2).25

- Are there well-established programs for forest land consolidation? Are there public bodies promoting or responsible for these programs?

Currently, Germany lacks a comprehensive, nationwide program for forest land consolidation. However, certain federal states, such as Rhineland-Palatinate26 and Thuringia27, previously implemented such initiatives. These past programs aimed to fund the consolidation process, addressing fragmented forest ownership and restructuring large areas of forest land to improve management efficiency.

It is important to mention that in Germany the **Land Consolidation Act** (*Flurbereiningungsgesetz*, FlurbG)28 provides the legal framework for land consolidation procedures. **Section 1 FlurbG** allows for the consolidation of land to improve agricultural and forestry production conditions, as well as to enhance general land use planning and development. This process is carried out through formal procedures within a specified area, involving all landowners and relevant authorities. Responsibility for conducting land consolidation lies within the State or Länder, which sets the locally competent lower land consolidation authority. The designated authority may vary by federal state due to each state's specific regulatory structure for land consolidation. The federal states are required to prioritize the implementation of land consolidation, and they have enacted corresponding legislation to fulfil this mandate.29

A relevant provision to highlight is **Section 85 FlurbG**, which establishes specific rules and cross-references to specific regulations within the law to safeguard forest interest during land consolidation procedures involving forest land. This provision ensures the active involvement of forestry professionals, mandates approvals for significant alterations or timber harvesting, and requires compensation mechanisms when ownership changes. Additionally, it sets procedural safeguards for large forest areas. The primary aim of these regulations is to balance the objectives of land consolidation with sustainable forest management and regulatory protection.

3.4. Proof of ownership: Land registry and Cadastre

How is ownership proved?

In Germany, proof of ownership is primarily established through the registration in the Land Register (*Grundbuch*)30, a public registry maintained by local courts that serves as the definitive record of property ownership and associated rights. Forest owners, like other property owners,

25 Endres, E., Bundeswaldgesetz Kommentar, Erich Schmidt Verlag, 2022, p. 159.

26 Rheinland-Pfalz, Waldflurbereiningung; Fachagentur Nachwachsende Rohstoffe, Praxisleitfaden erschienen: Waldflurbereinigungen effizient und mit hoher Eigentümerakzeptanz umsetzen - Pilotprojekt „Waldneuordnung 2020" erfolgreich abgeschlossen, 13. September 2017.

27 Landesamt für Bodenmanagement und Geoinformation, Flurbereiningungsprogramm für den Freistaat Thüringen 2021, 2021.

28 Land Consolidation Act of 14 July 1953 (Flurbereinigungsgesetz vom 14 Juli 1953).

29 Find a non-exhaustive list of the federal states implementing laws here.

30 Extracts or other documents proving ownership can be found here.

may obtain extracts or other relevant documents from the Land Registry to substantiate their ownership.

- Is there a legal obligation to register **ownership/property**?

Under German law, forest ownership, as also for other forms of immovable property, must be compulsorily registered in the Land Registry. This requirement is codified in **Section 873(1) BGB**31, which stipulates that the transfer or encumbrance of real property or related rights becomes legally effective only upon mutual agreement between the parties and subsequent registration in the Land Register.

- Is there a registration fee?

The cost for a land registry entry in Germany are governed by the **Court and Notary Costs Act** (*Gerichts-und Notarkostengesetz* – GNotKG)32. The Act establishes the fees applicable for notarial certifications, land register entries, and other judicial procedures.33 The fees are typically calculated based on the value of the property or the right being registered and are commonly estimated at approximately 1% to 1.5% of the property's purchase price.34 In addition to the land registry fees, notary costs often apply, as property rights transactions (e.g., property transfers) typically require notarial certification.

- **Is there an official register of forest owners and of forest holdings? Is it shared with agricultural registers? Is it harmonized with the general property/ownership register?**

In Germany, there is no separate land registry for forests owners and holdings. Forest land, like all other forms of immovable property, falls under the Land Registry mentioned above.

- Is the **Cadaster/register** well updated and reflecting real forest owners/holders?

The German Land Registry is regularly updated to reflect changes in property ownership, encumbrances, and rights. Errors or delays can occasionally occur due to administrative processes and disputes. Also, the cadaster35 is regularly updated to reflect the changes in sizes and the characteristics of properties.

31 German Civil Code of 2 January 2002 (Bürgerliches Gesetzbuch vom 2 Januar 2002).

32 Court and Notary Costs Act of 23 July 2013, Act on the costs of voluntary jurisdiction for courts and notaries (Gerichts-und Notarkostengesetz vom 23 Juli 2013).

33 Court and Notary Costs Act of 23 July 2013, Act on the costs of voluntary jurisdiction for courts and notaries (Gerichts-und Notarkostengesetz vom 23 Juli 2013), Section 1.

34 Court and Notary Costs Act of 23 July 2013, Act on the costs of voluntary jurisdiction for courts and notaries (Gerichts-und Notarkostengesetz vom 23 Juli 2013), Section 34.

35 Find the German cadastre here.

4. Rights and obligations: forest owner/holder and forest contractor

4.1. Overview

- **According to the legal and regulatory framework what are the rights and obligations of forest owners/holders and forest managers in your country?**

It is important to mention from the outset, that in Germany, the rights, duties, and interests of the forest owners are weighed against the needs of the general public. For example, the Federal Forest Act requires governmental permission to convert forestlands to agriculture and other uses, and it prohibits the granting of deforestation permits if they are considered to be against the public interest.

The Federal Forest Act does not delineate the specific rights and obligations of forest owners. Instead, it establishes an overarching legal framework to ensure uniform forestry law across Germany, focusing on foundational principles while allowing detailed regulations to be developed by the individual federal states. Accordingly, the following analysis will explore these rights and obligations using, as above, the **Bavarian Forest Act** (BayWaldG)36 as an example. Bavaria was selected as it has the highest forest coverage among all federal states and 98.8% of its private forest owners manage properties smaller than 20 hectares37, making it a representative example for analysing small-scale forest ownership.

The Bavarian Forest Act grants the following **rights** to forest owners:

- **Article 14 BayWaldG** sets the right of forest owners to manage their forests in accordance with sustainability forestry principles.
- **Article 22 BayWaldG** regulates that forest owners may receive financial aid for specific conservation activities and in cases where public interest measures affect their forest management.
- **Article 43 BayWaldG** ensures that in cases involving significant measures like forest classification or management restrictions, forest owners must be consulted.

The **obligations** for forest owners established under the Bavarian Forest Act include:

- **Article 9 BayWaldG** prohibits any action that destroys or significantly weakens the forest's productive capacity unless authorized.
- **Article 12(3) BayWaldG** allows for the imposition to the forest owner to establish and maintain recreational facilities or the removal of disruptive structures and installations by an implementing agency, provided that due consideration is given to their economic interests.
- **Article 13 BayWaldG** generally allows the public to enter forests that are subject to regulations and exceptions for recreation and nature enjoyment.

36 Bavarian Forest Act of the 22 July 2005 (Bayrisches Waldgesetz (BayWaldG) in der Fassung vom 22. Juli 2005 (GVBl S. 313)).
37 European Forest Institute, Forest Land Ownership Change in Germany – COST Action FP1201 FACESMAP Country Report (2020).

- **Article 14 BayWaldG** obliges forest owners to sustainably manage their forests to preserve its economic, ecologic, and social functions.
- **Article 15 BayWaldG** regulates that forest owners reforest areas that are clear-cut or damaged within specified time frames.
- **Article 17 BayWaldG** establishes specific measures aimed at preventing and managing fire hazards within forested areas.
- **Article 26 BayWaldG** obliges forest owners to cooperate with forest supervision authorities, which may require access to land or relevant information.

4.2. Legal rights of the forest owner/holder

- **Right to financial support/tax exemptions/subsidies? What are the requirements?**

With regards to tax exemptions the following provisions apply to small forest owners:

- The Income Tax Act, under **Section 13 (3)**, sets different tax exemptions thresholds. Small-scale income from agriculture and forestry benefits from a partial exemption: only the portion exceeding EUR 900 (or EUR 1,800 for jointly assessed spouses) is included in the total taxable income, provided the taxpayer's overall income remains below EUR 30,700 (or EUR 61,400 for spouses). No other tax exemptions have been identified by the analysis.
- Pursuant to **Section 13a** (*Einkommensteuergesetz* - EStG)[14] **in conjunction with Section 51 of the Income Tax Implementing Regulation** (*Einkommensteuer-Durchführungsverordnung* - EStDV)[15], agricultural and forestry undertakings that are not required to keep books and possess less than 50 hectares of forest land may, upon application (on an annual basis), deduct a flat rate of 55% of gross timber sales revenue as operating expenses. In cases of standing timber sales, the deductible rate is 20%.
- Regardless of calamity-related harvests, bookkeeping forestry enterprises may at any time establish a tax-reducing reserve under **Section 3 of the Forest Damage Compensation Act** (*Forstschäden-Ausgleichsgesetz* - ForstSchAusglG)[16]. This allows a reduction of taxable profits to account for anticipated forest damage.
- Pursuant to **Section 32c EStG**, bookkeeping agricultural and forestry undertakings may apply for a tax rate reduction based on income averaging over a three-year period (first applicable to 2014–2016). This enables smoothing of income fluctuations by offsetting higher income in good years against lower income in bad years, thereby mitigating the negative effects of tax progression.
- Where forest owners generate income from extraordinary (calamity-induced) timber harvests, **§ 34b EStG** offers special tax relief. From the first cubic metre, such sales qualify for a half tax rate. If the volume exceeds the enterprise's regular utilisation rate, the excess is taxed at a quarter rate. These benefits are conditional upon:
    - a quantitative distinction between ordinary and extraordinary timber use for each tax year, and

- immediate notification of damage caused by force majeure to the relevant tax authority, including proof of volume post-processing.

Forest owners are advised to consult their local tax office before commencing the processing of damaged timber, to allow for inspection by the forestry experts of the tax authority. Failure to do so may result in denial of the tax benefit.

When it comes to **subsidies**, the 'Improvement of Agricultural Structures and Coastal Protection' (*Gemeinschaftsaufgabe "Verbesserung der Agrarstruktur und des Küstenschutzes"* - GAK)[17] is Germany's national funding instrument for supporting agriculture and forestry, developing rural areas, and enhancing coastal and flood protection.

On a Länder level the third part of the Bavarian Forest Act contains various provisions concerning the funding and compensation related to forest land management.

Article 20 BayWaldG serves as a general provision for financial support to forest owners. It emphasizes that the Act promotes forest management and development, including educational and training initiatives for private forest owners, such as programs at the Bavarian Forest Farmers' School. This support is further supplemented by the Bavarian Agricultural Economy Act and other relevant programs and legal frameworks.

Article 22 BayWaldG sets out subsidies to private and corporate owners for the management of protection forests (as listed in Article 10) and recreational forests. Additional subsidies may be granted for measures that are consistent with the Act's principles, such as sustainable forest management (Article 14), maintaining food functions, and preserving biodiversity. Eligible measures include pest control, disaster recovery, and the creation of natural or site-appropriate forests, among others. The scope and nature of these subsidies are defined within a state forestry support program.

Various provisions within the Act provide for compensation mechanisms for forest owners. **Article 21 BayWaldG** foresees that forest owners may receive assistance covering 75% of damage caused by forest fires if compensation cannot be obtained from a third party. This assistance may be reduced or denied if the owner caused the damage or failed to mitigate it. Conditions may be imposed, such as timely reforestation or pursuing claims against responsible third parties, and compensation may require the transfer of claims up to the amount of the aid provided. The Act does not specify any additional requirements. In addition, **Article 23 BayWaldG** regulates that if forest management activities pursuant to Article 14(2) result in reduced revenues or additional costs not falling typically under normal management, financial compensation may be provided, except for municipal entities. These payments are the responsibility of the State of Bavaria. Also here, the Act does not specify any additional requirements. Lastly, **Article 24 BayWaldG** ensures that forest owners are entitled to monetary compensation in accordance with the Bavarian Expropriation Act if measures implemented under the Act result in expropriation or a comparable economic impact.

- **Is there a right to decide about the forest management practices in their forest land?**

Both the Federal Forest Act under Section 11 and more in depth the Bavarian Forest Act under Article 14 establish obligations for forest owners to ensure sustainable forest management practices, with a focus on restoration, biodiversity preservation, and minimal environmental impact. Within these parameters, forest owners retain a degree of discretion over their management decisions but must adhere to statutory requirements that promote sustainable and environmentally responsible forestry. Specifically, Article BayWaldG obligates forest owners to:

- Manage their forests appropriately, preserving the ecological, economic, and social functions of the forest.
- Select appropriate site-specific tree species for regeneration and promote natural rejuvenation.
- Minimize the impact on forest soil and stands and limit the use of fertilizers and chemical pesticides.
- Maintain biodiversity and avoid clear-cutting in high forests, except under specific regulated conditions.

In designated protection forests (Article 10 BayWaldG) and recreational forests, additional restrictions may apply to ensure protective and recreational functions are upheld.

Consequently, while forest owners have a degree of decision-making authority over forest management, their practices are subject to regulations designed to promote sustainable management and protect public interests.

- **Is there a right to harvest?**

Similar to the previous section, based on both Section 11 BWaldG and Article 14 BayWaldG, forest owners have the right to harvest timber, but this right is subject to strict regulatory conditions to ensure sustainable forest management (see below).

4.3. Limitations to the rights of forest owner/holder

- **Is there a limitation to change the land use of the land (from forestry to agriculture and/or urbanization)?**

The Bavarian Forest Act lack specific any mention to specific limitation to change the land use of the land. However, under **Section 9 BWaldG** limitation are stated clearly. According to this provision the conversion of forest land to a different type of land use (e.g., agriculture or urbanization) requires prior approval from the competent state authority under state law. When evaluating a conversion request, a careful balancing of the forest owner's rights, duties, and economic interests with public interests is mandated. The application will be denied if preserving the forest is predominantly in the public interest, particularly if the forest holds significant value for environmental functions, forestry production, or public recreation. Furthermore, conversion approvals may be granted for a limited duration, with conditions ensuring that the land is appropriately reforested within a specified timeframe.

- **Is there a legal limitation to the right to harvest? Is there a ban on clear cutting?**

As previously noted, the right to harvest is subject to strict regulatory conditions designed to ensure sustainable forest management.

Article 9 BayWaldG sets a ban for certain forms of clear-cutting activities. Under this provision any action that destroys or severely diminishes the productive capacity of forest soil is prohibited unless a specific permit is granted for clearing. Additionally, clearing forests for conversion to another land use requires explicit authorization from the competent authority. In protected forests, conversion is subject to even stricter controls.

Large-scale harvesting or clearing may trigger the need for an Environmental Impact Assessment (EIA) under **Article 39a BayWaldG**. An EIA is mandatory if:

a. The proposed forest clearing exceeds 10 hectares.
b. The project impacts at least 5 hectares in protected forests, conservation areas, or designated EU-protected zones.
c. The clearing affects at least 1 hectare in a legally protected biotope.

More specific conditions for the EIA are outlined in the provisions of the Bavarian Administrative Procedure Act.38

- **Are there limitations to carry out non-forest activities in forest land (like mining, energy plants, etc.)?**

The Bavarian Forest Act does not explicitly prohibit non-forest activities, such as land mining, on forest land. However, as discussed previously, **Article 14 BayWaldG** mandates that forest management practices must align with sustainable activities that fulfil the law's objectives—namely, preserving ecological health, enhancing public use and recreation, and supporting economic productivity. Therefore, while not specifically addressed, activities such as land mining may fall outside the permissible scope of forest land use due to their potential conflict with these statutory purposes and thus may not be allowed.

In addition, the proposals to extend mining permits in Germany have run into stiff opposition from environmental activists, including temporary occupations, like at the Hambach mine near Cologne. Since 2019, the end of coal and lignite mining has been planned for 2038, in order to significantly reduce the country's greenhouse-gas emissions[39].

- **Are there specific limitations to carry out agricultural activities, like extensive grazing or temporary cultivation, on forest land?**

38 Find the law here.

39 Michel Deshaies, « Mines, the Environment, and Mining Landscapes in Germany », Encyclopédie d'histoire numérique de l'Europe [online], ISSN 2677-6588, published on 05/03/24, consulted on 23/12/2024, at link: https://ehne.fr/en/node/21499.

There is no explicit prohibition on agricultural activities under the Bavarian Forest Act. Such activities may be permitted, provided they align with the law's objectives. In designated protection and recreational forests under Article 14(2) BayWaldG obtaining permission for such activities may be even more challenging due to the stringent requirements aimed at preserving their protective and recreational functions. Under this article authorities are allowed to prohibit activities that could endanger the protective and recreational functions of designated forests. In addition, forest owners must tolerate measures deemed necessary to safeguard these functions, such as soil stabilisation works, biodiversity enhancement, or visitor management strategies.

- **Is hunting right linked to ownership, right? Is it considered a forest activity, or does it have specific regulations?**

The **Federal Hunting Act** (*Bundesjagdgesetz*, BJagdG)40 establishes that the hunting right is inherently tied to land ownership. This right is inseparable from land ownership and cannot be created as an independent real right.41 However, the Act specifies that in cases where land ownership has not been established, the hunting right is vested in the federal states.42 Consequently, hunting is distinguished from forest management activities and is not classified as a forestry-related activity.

- **Are there citizens' rights to collect wild products in forest land? Are they linked to the ownership right or not?**

Citizens do have the right to collect certain wild products from forest land (public or private owned), but this right is not linked to ownership rights. According to **Section 39(3) BNatSchG**, individuals may collect and use small quantities of wild products, such as flowers, grasses, ferns, mosses, fruits, mushrooms, tea and medicinal herbs, as well as branches, for personal use. However, this collection is only permitted in areas that are not subject to restrictions on public access and must not cause damage or violate broader conservation objectives.

- **Are there rights to access (walking) on forest land? Are there specific regulations for public use of forest land, hiking, riding, biking, etc.?**

Access to forest land (public or private owned) for purposes such as enjoying nature and recreation is permitted to everyone free of charge, as stipulated under **Article 13 BayWaldG**. Public access generally occurs at the individual's own risk and does not create special obligations of care or safety on the part of the landowners or other entitled parties, unless otherwise specified by law. Activities such as cycling, riding, and the use of wheelchairs within forests are limited to roads and suitable paths. This is subject to additional regulations under road, path, and traffic laws.

40 Federal Hunting Act of the 29 September 1976 (Bundesjagdgesetz vom 29 September 1976 (BGBl. I S. 2849)).
41 Federal Hunting Act of the 29 September 1976 (Bundesjagdgesetz vom 29 September 1976 (BGBl. I S. 2849)), Section 3(1).
42 Federal Hunting Act of the 29 September 1976 (Bundesjagdgesetz vom 29 September 1976 (BGBl. I S. 2849)), Section 3(2).

4.4. Forest owner/holder obligations and requirements.

- **Which requirements or obligations regarding forest management are imposed on owners?**

Under **Article 14 BayWaldG**, forest owners are subject to several key obligations to ensure sustainable and appropriate forest management:

- Sustainable management and damage prevention: forests must be managed responsibly within the purpose of the law and protected against damage.
- Forest regeneration: owners must select site-appropriate tree species for regeneration, ensure adequate involvement of native species, and utilize natural regeneration methods where possible.
- Soil and forest stand preservation: careful handling of forest soil and stands is required to maintain ecological balance.
- Restrictions on fertilizers and pesticides: the use of fertilizers for yield enhancement is prohibited, and the use of chemical pesticides must be minimized.
- Biodiversity conservation: efforts must be made to maintain and, where possible, enhance biological diversity within the forest.
- Clear-cutting restriction: clear-cutting is generally prohibited in high forests, with specific exceptions given by the competent authorities.

In protection forests and recreational forests (as defined in Article 10), further restrictions may apply. Owners and users of such forests must tolerate measures necessary to maintain their protective and recreational functions. Additionally, prescribed forestry management measures may be imposed in protection forests and publicly owned recreational forests to uphold these functions. Forest owners may also be required to accommodate measures aimed at protecting the public from harmful emissions.43

- **Is there a tax** imposed on forest ownership?

In Germany, there is no specific tax imposed solely on forest ownership itself. Instead, taxes related to forest land are typically part of broader taxation categories, such as:

- **Property tax** (*Grundsteuer*)44: Forest landowners are subject to property tax, which is levied on real estate, including forest land. The tax amount is determined based on the assessed value of the property by the local municipality. Property tax in Germany is categorized according to the land's purpose and use. Forest land typically falls under *Grundsteuer* A, which applies to agricultural and forestry enterprises.45

43 Bavarian Forest Act of the 22 July 2005 (Bayrisches Waldgesetz (BayWaldG) in der Fassung vom 22. Juli 2005 (GVBl S. 313)), Section 14(2).

44 The new property tax reform (Grundsteuerreform) entered fully into force as of 1 January 2025. With regard to small forest owners, the changes introduced are limited to the standardise form used facilitating a largely IT-supported income-based valuation and taxation process. Further information can be consulted here.

45 Bundesfinanzministerium, Überblick zur Grundsteuerreform – Wie die Länder das neue Grund-steuerrecht umsetzen, November 2021.

The new property tax reform (*Grundsteuerreform*) entered into force as of 1 January 2025. For the category of Grundsteuer A relevant to small forest owners, the income-based valuation method remains applicable, but through a simplified and standardised IT-supported form. The taxable value of agricultural and forestry holdings is now determined through such standardised IT-supported assessment of land areas and farm buildings and taxation, reducing the need for individualised assessments and precise demarcation of land parcels.

- **Income tax:** Income generated from forestry activities, such as timber sales, is subject to regular income tax. This applies to both individuals and entities that derive income from forest management.

- **Is there an official register of forest owners and of forest holdings? Is it shared with agricultural registers? Is it harmonized with the ownership register?**

In Germany, there is no separate land registry for forests owners and holdings. Forest land, like all other forms of immovable property, falls under the Land Registry mentioned under the relevant section above.

- **What type of permits the forest owner needs** to manage their land?

Neither the Federal Forest Act nor the Bavarian Forest Act specifically outline potential permits required for general forest management activities. However, both Acts indicate that compliance with legal requirements for forest management will be monitored by state authorities, such as forestry offices and environmental ministries. These authorities are empowered to conduct regular inspections to ensure that forest owners adhere to the statutory obligations and standards prescribed by law.46

- **How is the control of forest harvest determined? Is there an obligation to mark every tree to be cut or retained?**

The control of forest harvest and the obligation to mark every tree to be cut or retained is not regulated under the legislative acts reviewed.

- **Are there technical, administrative or economic specifications on the forest products market? Are forest harvest contracts legally defined for public or private forests or for some specific types?**

No such specification or contracts are stipulated or mentioned under the legislative acts reviewed.

- **Is there an obligation to prevent forest fires or other risks?**

Under **Article 17 BayWaldG**, there are specific obligations related to fire prevention. Individuals are generally prohibited from engaging in activities that pose a fire risk within forest areas or

46 Bavarian Forest Act of the 22 July 2005 (Bayrisches Waldgesetz (BayWaldG) in der Fassung vom 22. Juli 2005 (GVBl S. 313)), Section 26.

within 100 meters of forest boundaries, such as lighting fires, using open flames, or burning ground cover, unless a permit is obtained. Additionally, restrictions on lighting fires are particularly stringent during certain periods of the year. Forest owners, their employees, individuals conducting authorized or mandated work, those engaged in hunting, and individuals exercising wood utilization rights are exempt from those restrictions and do not require permits to activities such as lighting as listed under **Article 17(4) BayWaldG.**

- **Is fencing or the use of forest roads regulated?**

In Bavaria. Fences are allowed if they are used to protect small growing trees (e.g. during a process of natural regeneration, or planting). Apart from that, every forest must be open to the public. Fences with an area of more than 5 hectares must be notified to the Lower Conservation Authority.47

The use and maintenance of forest roads are subject to **Article 54** of the **Bavarian Roads and Pathway Act** (*Bayerisches Straßen- und Wegegesetz*, BayStrWG)48. According to this provision municipalities are responsible for developed public field and forest roads, while the maintenance and management of undeveloped roads rest with the individuals whose properties are serviced by these roads. Municipalities can assume responsibility for undeveloped roads through a local ordinance. When undeveloped forest roads are upgraded or newly constructed, the responsibility for their maintenance shifts to the municipality upon completion of the construction or when the road is opened for traffic. In certain cases, municipalities may recover up to 75% of their uncovered costs for road maintenance from the affected property owners, calculated based on property size and usage, including forest-related activities.

- **Is there an obligation for forest owners and/or forest managers to be associated?**

No such obligation is stipulated under the legislative acts reviewed.

4.5. Forest manager/contractor obligations

- **Which requirements or obligations on forest management are legally imposed on forest managers/contractors**?

As German law does not specifically define forest managers/contractors, nor distinguish it from forest owner, the obligations outlined in the preceding section are applicable in this context.

- **What legal rights does the forest manager/contractor have in your country**?

As German law does not specifically define forest managers/contractors, nor distinguish it from forest owner, the obligations outlined in the preceding section are applicable in this context.

- Is **there a requirement of a forest management plan**? Are there detailed prescriptions on that?

47 Waldbesitzer Portal Bayern, Pflichten und Rechte aus verschiedenen Rechtsbereichen (13.06.2024).
48 Bavarian Roads and Pathway Act of the 5 October 1981 (Bayerisches Straßen- und Wegegesetz vom 5 Oktober 1981 BayRS V S. 731).

As German law does not specifically define forest managers/contractors, nor distinguish it from forest owner, the obligations outlined in the preceding section are applicable in this context.

- Is there an **obligation to register the responsibility** of forest manager/contractor?
    i. Is registration based on product income?
    ii. Is there a registration fee?

As previously noted, forest managers are not specifically defined under German law. Therefore, there is no tax imposed exclusively on forest managers.

- Is there a **tax imposed on the forest manager**? Is it based on income or hectares?

As mentioned above forest managers are not defined under German law. Therefore, there is no tax imposed exclusively on forest managers.

5. Forest Management plans

- Are forest management plans required in the legislation of your country?

☒ **Yes**

☐ No

Under the Bavarian legal framework, the objectives of forest management are clearly defined for larger corporate and public forests. In contrast, small private forests are not explicitly addressed regarding the requirement to implement forest management plans. A possible rationale for this exclusion can be derived from Article 19 BayWaldG, which governs corporate forests and explicitly exempts those under 25 hectares from the requirement to implement forest management plans.

As just mentioned, **Article 19 BayWaldG** requires the management of corporate forests (*Körperschaftswald*) to follow forest management plans. For smaller forests, this obligation may instead be fulfilled through forest management reports.

In relation to this, the **Guidelines for Forest Management in the Corporate Forest**[49] regulate that the forest management plans must include a textual component with appendices, a forest district book with result lists, a forest management map, and, where necessary, an overview map showing the location of forest parcels. The plans must meet certain minimum structural and content standards to ensure comprehensive and sustainable forest management.

- Are there other type of plans required such as:

☐ **Technical Plan**

☐ **Financial Plan**

☐ **Exploitation Plan**

☐ **Fire prevention Plan**

☐ **Hunting Plan**

- Please indicate the **minimum size of forest requiring a forest management plan**?

Forest management plans are typically required for corporate forests exceeding 25 hectares and up to 100 hectares in size according to the Guidelines mentioned above.

- On **which legal basis are they required? Are they legally binding or only guidelines**?

The requirement for forest management plans is based on **Article 19(2) BayWaldG.** These plans are legally binding for corporate forest management.

49 Guidelines for forest management in the corporate forest of the 10 January 2012 (Richtlinien für die Forsteinrichtung im Körperschaftswald vom 10 Januar 2012 (AIIMBI. 2012 S. 88).

- **Who has the responsibility for the implementation of forest management plans**? Please include national, regional, and local levels as appropriate. Please distinguish between state and private ownership. Please distinguish between different protection status.

For corporate forests (Körperschaftswald), the responsibility for implementing forest management plans lies primarily with the corporate entities themselves, such as municipalities or public-law corporations, as specified under **Article 19 BayWaldG.** These entities must ensure their forests are managed according to approved forest management plans or operational assessments.

In this setting, lower forest authorities may provide oversight and support, and they can be contracted to manage operations and implement the plans on behalf of the corporate bodies if required.50

If the corporate bodies choose to manage their forests independently, they must engage appropriately qualified forestry professionals to handle operational execution and ensure compliance with management objectives.51

- Are forest **management plans being enforced**?

The Bavarian State Ministry for Food, Agriculture, Forestry, and Tourism, in coordination with other relevant ministries, is authorized to issue regulations governing the preparation, content, and execution of forest management plans and operational assessments. This includes oversight mechanisms and supervision of corporate forest management to ensure compliance with established plans. The lower forestry authorities are tasked with monitoring and enforcing adherence to these plans, providing additional enforcement measures, including contractual arrangements and regulatory oversight, to maintain sustainable forest management practices.52

- Is there an obligation to maintain a **Forest Book** (linked or related to the Farm Book of the Common Agricultural Policy (CAP)?

The Guidelines for Forest Management in the Corporate Forest require to maintain a district book in paper form and/or in electronic form as a file. This book must contain the results of the inventory-based survey and planning, including descriptions and proposed measures.

- **How often do forest management plans need to be updated**? Who is responsible for the update?

Forest management plans for corporate forests in Bavaria must be reviewed and updated regularly with a planning period of 20 years, with a mandatory review at the halfway point after

50 Bavarian Forest Act of the 22 July 2005 (Bayrisches Waldgesetz (BayWaldG) in der Fassung vom 22. Juli 2005 (GVBl S. 313)), Section 19(2).
51 Bavarian Forest Act of the 22 July 2005 (Bayrisches Waldgesetz (BayWaldG) in der Fassung vom 22. Juli 2005 (GVBl S. 313)), Section 19(4).
52 Bavarian Forest Act of the 22 July 2005 (Bayrisches Waldgesetz (BayWaldG) in der Fassung vom 22. Juli 2005 (GVBl S. 313)), Section 19(6).

10 years.53 The responsibility for updating and conducting reviews lies with the lower forestry authorities in cooperation with the respective corporation, as outlined in Art. 19 BayWaldG.

- Are specific mechanisms put in place to guarantee that national legislation is in line with European guidelines and **criteria on forest management plans** (i.e. Natura 2000 Forest Management Plans)?

Specific mechanisms are in place to ensure that national legislation aligns with European guidelines and criteria for forest management plans, particularly for Natura 2000 sites. **Section 31 and 32 BNatSchG** mandate that both the federal and state governments fulfil their obligations under the EU Habitats Directive (92/43/EEC) and Birds Directive (2009/147/EC). This ensures the establishment and protection of the Natura 2000 network as part of a cohesive European ecological network. Key mechanisms include site designation and protection, management plans, prohibition of deterioration, and monitoring and reporting.

- Are there any specific requirements for the **forest management plans** in terms of content, structure or criteria? If yes, please elaborate.

The Guidelines for Forest Management in the Corporate Forest outline specific requirements regarding the content, structure, and criteria for forest management plans. These plans must include the following components:

- The textual sections must provide a detailed analysis of the current forest conditions, an evaluation of past management practices, and a comprehensive plan for future management. It includes a structured presentation of general and silvicultural objectives, planned measures, and expected outcomes, ensuring alignment with ecological, economic, and social goals.
- The district book and result lists document the results of the inventory-based surveys and planned management measures for each forest stand. It should be available in both paper and electronic formats.
- Forest operation maps provide a graphical representation of the forest, highlighting key management areas, boundaries, and relevant natural features. These maps support the planning and execution of forestry operations.

- Are there any **supporting mechanism for the management plans**? If yes, please elaborate.

Mechanisms such as technical guidelines, financial support, and dedicated resources for forest management planning are foreseen. For example, both Article 19 BayWaldG and the Guidelines for Forest Management in the Corporate Forest provide cost sharing measures for the preparation of management plans for corporate forests, reflecting a commitment to support sustainable forest practices through operational oversight and expert guidance.

53 Corporate Forest Ordinance, Ordinance on the Management and Supervision of the Corporation Forest of the 9 February 2007 (*Verordnung über die Bewirtschaftung und Beaufsichtigung des Körperschaftswaldes* vom 9 Febraur 2007); Guidelines for forest management in the corporate forest of the 10 January 2012 (Richtlinien für die Forsteinrichtung im Körperschaftswald vom 10 Januar 2012 (AIIMBI. 2012 S. 88).

- Are **there impact assessment required** in your country in relation to the adoption of the forest management plans? What mechanisms are in place in your country to ensure that forest management plans are developed to ensure sustainable forest management practices? If yes, please elaborate.

There is no explicit reference to a requirement for an impact assessment in relation to the adoption of the forest management plans.

- Are the **Natura 2000 sites plans already implemented and well-coordinated or integrated** with forest management plans? Are traditional forest activities recognized in those plans? Are there guidelines for small forest owners and managers on what they can and can't do?

Specific mechanisms are in place in the Guidelines mentioned above to make sure that the forest management plans are in line with Natura 2000. According to the regulations, forestry measures within Natura 2000 areas must adhere to the prohibition of deterioration as outlined in Section 34(1) BNatSchG. This means that any forestry activities that could significantly harm protected habitats or species must be avoided.

Forest management plans must consider the conservation objectives for these areas, including habitat types and species listed in the FFH Directive (92/43/EEC) and the Birds Directive. The plans should be tailored to avoid activities that could negatively impact these conservation goals. While the management plans do not impose binding obligations on individual forest owners to incorporate specific conservation measures, they serve as critical guidance to align local forestry practices with European requirements. This integration is facilitated by lower forestry authorities and Natura 2000 coordinators, ensuring compliance and providing expert guidance to forest managers.

6. Sustainable forest management.

6.1. Sustainable forest management definition and forestry practices

- Is sustainable forest **management (SFM) defined in your country**?

☒ **Yes**

Any of the legislative acts reviewed does not provide a definition of sustainable forest management. The Federal Forest Act for instance mentions under its Section 1 that the objective of the Act is to ensure sustainable forest management.

However, it is important to mention that both in the German Forest Report 202154 of the Federal Ministry of Food and Agriculture and in the German PEFC standard for sustainable forest management normative document of 202055 define the term. The definition has been aligned with the one given during the Helsinki Declaration of 1993 which was the result of the Ministerial Conference on the Protection of Forests in Europe (FOREST EUROPE), namely sustainable forest management in Germany takes place in a way, that biological diversity, productivity, regeneration capability, vitality and the ability to meet in the present and in the future important ecological, economic and social functions on local and national basis, is secured and no other ecosystems are harmed.

☐ No

- Does the definition of **SFM include specific objectives**?

☐ Yes

☒ **No**

- Does your country have specific guidelines **on Sustainable Forest Management**? If yes, are those mentioned in the legislation?

☐ Yes, they can be found here:

☒ **No**

☐ Other sources defining or implementing Sustainable Forest Management

54 Federal Ministry of Food and Agriculture, German Forests Report, 2021.

55 German PEFC standard for sustainable forest management, Normative Document, 2020.

- Does your country have a **Forest Strategy and/or Forest Management Policy** setting policy priorities that implement a SFM approach?

☒ **Yes, they can be found here:**

Bundesministerium für Umwelt, Naturschutz, nukleare Sicherheit und Verbraucherschutz, Guidelines for the reforestation of Germany, 2021.

FSC Germany, Guidelines for Responsible Forest Management, 2024.

Bundesministerium für Ernährung und Landwirtschaft, Waldstrategie 2050, 2022.

☐ No

☐ Other sources setting the Forest strategy/policy

- **Which requirements/obligations** result from the legally binding requirement for SFM?

  1. For forest owners
  2. For forest managers

  The strategies and policies referenced above are non-binding documents and, as such, do not impose legally enforceable requirements for sustainable forest management on forest owners.

  Article 14 BayWaldG obliges forest owners to sustainably manage their forests to preserve its economic, ecologic, and social functions. This means:

  - Proper Forest Management and Protection: Forests must be managed appropriately and safeguarded against damage.
  - Use of Site-Appropriate Tree Species: During reforestation, forest owners are required to select tree species suitable for the site, include native species appropriately, and utilise natural regeneration where possible.
  - Environmentally Sensitive Accessibility: Forests should be accessed as needed while minimising environmental impact.
  - Soil and Forest Protection: The soil and forest stands must be treated with care during forest management operations.
  - Limited Use of Chemicals: The use of fertilisers to increase yield is prohibited, and chemical plant protection agents should be avoided wherever possible.
  - Biodiversity Preservation: Maintaining biological diversity is a key obligation.
  - Avoidance of Clear-Cutting: Clear-cutting is to be avoided in high forests, subject to specific exceptions.

In addition, in protected and recreational forests, actions that could impair or endanger their protective and recreational functions may be prohibited. Forest owners must tolerate necessary measures to maintain these functions, and, in some cases, specific forestry management measures may be mandated.

- Are **specific criteria and/or indicators** to determine whether SFM is being achieved? Where are they described (see table below)?

Table 2: SFM criteria/indicators

Source of information	*Criteria/indicators*
Forest strategy 2050 (2021)	Biodiversity and landscape quality
National biodiversity strategy (not published yet)	PEFC & FSC certification
German adaptation for climate change (2008)	Promoting of forest conservation Conversion of endangered spruce stands Conservation of forest genetic resources

Source: own development

- Are some **forest managers implementing sustainable forest management practices voluntarily**? If yes, how are these voluntary management practices taking place? Through citizen initiatives, local initiatives, or other ways? Please explain how forest managers ensure that forest management practices are sustainable.

The implementation of SFM in Germany is supported by voluntary forest certification systems, which go beyond the minimum legal requirements of forest and nature conservation laws. Certification serves as a self-regulation mechanism for forest enterprises, requiring adherence to higher standards in ecological, economic, and social aspects of forest management. By obtaining certification under rigorous systems such as PEFC (Programme for the Endorsement of Forest Certification) or FSC (Forest Stewardship Council), forest owners demonstrate their commitment to sustainability and conservation of biodiversity and species protection beyond statutory obligations.56

- Which mechanisms are put in place to support the implementation of SFM? Which measures are in place to monitor implementation of the SFM?

As mentioned above the implementation of SFM in Germany is supported by voluntary forest certification systems. The federal government has established targets in the past to promote high-standard certification. In its previous National Strategy for Biological Diversity, the goal was set to certify 80% of forest areas under high-quality ecological standards by 2010. Although this target was initially missed, it has since been achieved. The current coalition agreement sets forth a commitment for federal forests to be managed, at minimum, according to FSC or *Naturland* standards, further reinforcing sustainable practices.57 The monitoring of SFM implementation is thus closely linked with compliance verification under these certification schemes, ensuring adherence to enhanced standards of forest management and sustainability.

56 Umwelt Bundesamt, Nachhaltige Waldwirtschaft, 8. March 2024.
57 Umwelt Bundesamt, Nachhaltige Waldwirtschaft, 8. March 2024.

- Which forest management practices are required or prohibited by law in your forest/country? Please check below the proposed forest management practices and add supplementary ones if missing (Please include explanation of the legal requirements of the relevant techniques).
  - ☒ **Closer to nature silviculture practices**(required)
  - ☒ **Clear-cutting (**prohibited**)**
  - ☐ Shelterwood system
  - ☐ Selective logging
  - ☐ Afforestation and reforestation to enlarge forest areas
  - ☐ Controlled burn
  - ☐ Mandatory salvage logging
  - ☐ Other .....

- Are there limitations on the management models to be applied, like clearcuttings or their sizes? **Is there a ban on clear cutting linked to SFM?**

Section 9 BayWaldG sets a ban for certain forms of clear-cutting activities. Under this provision any action that destroys or severely diminishes the productive capacity of forest soil is prohibited unless a specific permit is granted for clearing. Additionally, clearing forests for conversion to another land use requires explicit authorization from the competent authority. In protected forests, conversion is subject to even stricter controls.

Large-scale harvesting or clearing may trigger the need for an Environmental Impact Assessment (EIA) under **Article 39a BayWaldG.**

- Is there a **defined/legal target for forest land to be managed for conservation and species protection objectives in your country or region**?

The Federal Nature Conservation Act and the related federal state conservation laws outline in their preamble that their objective is to uphold nature conservation, landscape management, and species protection in line with the European conservation program Natura 2000.

Section 5 of the Federal Nature Conservation Act mentions forest with regard to the aim of forest management to establish a closer-to-nature approach and that there should be no clear cutting.

- Are there **forest owner obligations** related to **forest restoration** after harvest?

Article 15 BayWaldG establishes clear obligations for forest owners to ensure the reforestation of areas that have been clear-cut or damaged. Forest owners must reforest such areas within three years, and in cases where regeneration is incomplete, they are required to supplement the reforestation adequately within five years of clearing. In exceptional circumstances, these deadlines may be extended upon request, providing flexibility for forest owners facing special challenges.

Additionally, any land that has been unlawfully cleared or nor utilized as specified in an approved clearing permit must be reforested immediately to restore forest cover and comply with legal requirements.

To enforce these obligations, authorities responsible for issuing clearing permits are empowered to mandate the necessary reforestation measures if forest owners fail to meet the stipulated deadlines. These provisions ensure the sustainable management and prevention of forest systems.

6.2. "Closer-to-nature" guidelines and practices

(This section relates to the Commission Guidelines on Closer to nature forest management but also Commission guidance on payment schemes for forest ecosystem services both aiming to provide information and guidance for sustainable forest management)

- Has your country incorporated the **newly published Commission guidelines** in their legal or regulatory framework?

Currently Germany has not incorporated the newly published Commission guidelines in their legal and regulatory framework. However, a reference to closer to nature approach is included in the German strategy, in section 5 of the Federal Nature Conservation Act – BNatSchutzG and certain States law as described below.

- Has your country **recognized under law/regulatory measure a closer-to-nature approach** in forest management? If yes, please provide the source where this is explained and elaborate below.

☒ **Yes: in the Strategy that can be found here:**

Germany has recognized a close-to-nature approach in forest management under its national strategies and regulatory measures. This approach is explicitly referenced in the National Forest Strategy (2021), which notes that since the 1980s, forests in Germany have increasingly been managed according to close-to-nature principles. The aim is to promote and maintain ecosystem-typical diversity throughout the forested landscape. This strategy emphasizes measures such as natural regeneration, the selection of diverse tree species, mixed-age and mixed-species stands, integrated forest protection, and nature conservation goals, including habitat and biodiversity preservation.

Furthermore, the Forest Report 2021 elaborates on the close-to-nature, integrative, and sustainable management approach, highlighting its focus on maintaining and enhancing natural diversity, ecosystem health, and resilience. Measures include promoting genetic diversity, increasing deadwood for ecological purposes, protecting rare forest communities, and managing forest edges to promote biodiversity.

Lastly, **Section 5(3) BNatSchutzG** regulates that the aim of forestry is to develop a close-to-nature approach and to manage forest sustainably.

☐ No

- Does your country have legislation/measures setting specific biodiversity targets/management objectives for sustainable forest management at a national or regional level?

☐ Yes, at national level – they can be found here:

☐ Yes, at regional level – they can be found here: .....

☒ **No**

Please describe them and elaborate:

N/A

6.3. Climate change and Forest carbon absorption

- Does your country have legislation/measures setting specific climate change targets or objectives for sustainable forest management at a national or regional level?

The federal government has enacted the **Federal Climate Protection Act** (*Bundes-Klimaschutzgesetz*, KSG)58. It specifies Germany's plan to limit global warming to 2 degrees Celsius, preferably to 1.5 degrees Celsius and draws upon the Federal climate change goals, serving to keep to European Union targets and limits. According to the Act, a balance between environmental, social and economic consequences has been sought.

In addition, Germany has also implemented the **Federal Climate Adaptation Act** (*Bundes-Klimaanpassungsgesetz*, KAnG)59. The Law aims is to protect life, health, society, economy, infrastructure, nature, and ecosystems by avoiding or largely reducing the negative impacts of climate change, particularly the impending damages.

7. Forest land market

NOTE: The key objective is to identify and present information on the basic legal framework regulating market of forest land and inheritance processes.

- Are there specific legal requirements or limitations when selling and buying forest land?

The German Civil Code (*Bürgerliches Gesetzbuch*, BGB)60 established the general legal framework for property sales including forests. Under Section 433, it outlines the obligations of seller and buyer under the property purchase agreement. Additionally, Section 311b requires the notarisation of the contract, while Section 925 stipulates that the formal conveyance of ownership must be conducted before a notary and subsequently registered in the land register (Section 873).

58 Federal Climate Protection Act of the 12 December 2019 (Bundes-Klimaschutzgesetz vom 12 December 2019 (BGBl. I S. 2513)).

59 Federal Climate Adaptation Act of the 20 December 2023 (Bundes-Klimaanpassungsgesetz vom 20 December 2023 (BGBl. 2023 I Nr. 393).

60 Civil Code in the version promulgated on 2 January 2002 (Bürgerliches Gesetzbuch in der Fassung der Bekanntmachung vom 2. Januar 2002).

When selling and buying forest land in Germany it is important to mention the **Property Transfer Act**[61], as it may impose specific legal requirements and limitations. While private and corporate forest land is not directly subject to the law's provisions, certain transactions involving such lands may still be impacted if they intersect with the goals and conditions outlined in the Act. These include maintaining balanced land ownership, avoiding fragmentation, and ensuring the economic viability of forestry operations. Thus, while not explicitly included, private and corporate forest landowners should remain awar of the potential implications of this legislation.

The transfer of forest land under the Act is subject to approval by a competent state authority, as mandated by **Section 2(1) GrdstVG**. This provision requires that the transfer of property rights through a contractual sale or related legal transactions be approved to ensure that the transaction aligns with legal and policy goals. Such approval is necessary to maintain balanced land ownership, avoid fragmentation, and safeguard agricultural and forestry structures.

Section 9 GrdstVG outlines conditions under which approval may be denied. For forest owners, key considerations include:

- Preventing an "unhealthy distribution" of land, such as excessive fragmentation that undermines economic viability.
- Avoiding economically inefficient parcel divisions or sales that result in forest properties being reduced below a size that would enable proper forestry management (e.g., less than 3.5 hectares unless proper management can still be ensured).
- Ensuring that the purchase price is not grossly disproportionate to the value of the land, thus protecting the integrity of the market.

Section 10(1) GrdstVG empowers authorities to impose conditions on transactions. Conditions relevant for forest owners are:

- Enter a forest management contract with a qualified forestry expert.
- Comply with a management plan to guarantee appropriate land use and forestry practices.

Section 4 GrdstVG provides for exceptions where approval is not required, including transaction involving public bodies or when certain specified conditions are met, such as transfer to close relatives or transactions that promote land consolidation.

- Are there **limitations to divide** the land by selling or inheritances?

In Germany, there are indeed limitations on dividing land, including forest land, through sale or inheritance, as governed by the Property Transfer Act. Section 2(2) GrdstVG treats certain transactions as equivalent to a sale, including the partition of co-ownership shares and the establishment of usufruct over land. These transactions, like sales, are subject to approval by the competent authority. In addition, according to Section 9(1) GrdstVG the approval for the sale or division of land can be denied if it results in an "unhealthy distribution of land" (Section 9(3)

61 Property Transfer Act of 28 July 1961, Act on control of land transactions (Gesetz über Maßnahmen zur Verbesserung der Agrarstruktur und zur Sicherung land- und forstwirtschaftlicher Betriebe vom 28 July 1961).

GrdstVG highlights that this is the case if the property is divided into parcels smaller than 3.5 hectares) or if the division would render a property unviable for independent agricultural or forestry use. This includes situations where land parcels would become too small for economically sustainable use, such as if a forestry property were reduced below a certain size. Lastly, Sections 10 and 11 GrdstVG, the Property Transfer Act establishes that transactions involving the division of land, including sales and inheritances, are subject to regulatory scrutiny.

- Are there institutions/**bodies providing information** related to the forest land market?

In Germany, there is no institution/body related to the forest land market.

- Are there institutions/**bodies contributing to dynamize that market,** like forest land banks or advisory bodies (similar to the CAP advisory bodies) and others? Is there regular information on the amount of forest land transferred and the prices of transmissions? (Information on this market is usually missing)

In Germany, several institutions and bodies contribute to the dynamism of the market:

- **Federal Office for Agriculture and Food (Bundesanstalt für Landwirtschaft und Ernährung – BLE)**62: The BLE serves as a central authority for various agricultural and forestry matters and may offer market reports, studies, and statistical data relevant to forest land markets across Germany.
- **German Forest Owners' Association (AGDW – Die Waldeigentümer)**63: This association represents private and communal forest owners, offering information and support on land management, forestry laws, and market developments affecting forest land.
- **Chambers of Agriculture (Landwirtschaftskammern)**64: In certain states, these chambers provide guidance on land use, including forestry.

- Are there **regulations of forest land leasing**? Are they common with agricultural land or independent and with specific requirements?

In Germany no regulations of forest land leasing have been identified.

- Are there obligations **and or access to insurances for forest land or forest activities**?

In Germany, while there is no legal obligation for forest owners to ensure their forest land or forestry activities, there is access to insurances.65

62 Find here the link to the BLE.
63 Find here the link to the AGDW.
64 Find here the link to the Chambers of Agriculture.
65 Die Wald Eigentümer AGDW, Wald als Vermögenswert – Risiken absichern.

Forest insurance policies66 in Germany typically cover damages resulting from:

- Storms and Windthrow: High winds can cause significant damage to trees, leading to substantial economic losses.
- Fire: Forest fires, whether due to natural causes or human activities, pose a considerable risk.
- Pests and Diseases: Infestations by insects or outbreaks of diseases can severely affect forest health and productivity.
- Snow and Ice: Heavy snowfall or ice accumulation can lead to tree breakage and other structural damages.

Insurance coverage can be tailored to the specific needs of the forest owner, considering factors such as the size of the forest, tree species composition, and regional risk profiles.

- Are there specific regulations providing, **facilitating or limiting access to financial credits** for forest activities or mortgages on forest land?

The Bavarian Forest Act, specifically **Article 20 BayWaldG**, and the Bavarian Agricultural Economy Act (Bayerisches Agrarwirtschaftsgesetz, BayAgrarWiG)67 provide mechanisms to facilitate financial support for forest management and related activities. Article 20 BayWaldG highlights the promotion of forest management, including education and training initiatives, in conjunction with other support programs and legal frameworks.

The BayAgrarWiG further outlines eligible measures for financial support, including land consolidation, and integrated rural development projects.

These laws do not specifically foresee any limitation to access to financial credits.

66 Find here the link to the 'Versicherungsstelle Deutscher Wald'.

67 Bavarian Agricultural Economy Act, Act for the sustainable development of the agricultural economy and rural areas of the 8 December 2006 (Bayerisches Gesetz zur nachhaltigen Entwicklung der Agrarwirtschaft und des ländlichen Raumes vom 8 December 2006 GVBl. S. 938).

8. Forest companies, Forest incentives and taxation.

Forest Companies

- Is there a **register of forest industries**? Is there a **register of forest contractors**?

From the desk research it seems that Germany does not have a register of forest industries.

- Is there any specific **regulation on forest ownership, forest cooperatives or other types of forest companies or are they all regulated under the** Company Law?

Forest ownership and partly forest cooperatives are regulated under the Federal Forest Act and the respective federal state legislations. Forest cooperatives and companies, depending on their legal form (e.g., GmbH, AG), are regulated by general company law.68

- Do **small forest owners have access to the status of forest companies**?

If small forest owners are registered as a business under the Commercial Register, they have the status of forest companies and are subject to the provisions of the German Commercial Code (HGB) and must comply with the relevant commercial and business regulations applicable to registered enterprises. However, if small forest owners are not registered as a business under the Commercial Register, they don't have the status of forest companies.

Small forest co-owners in Germany may choose to register the land they collectively own as a company either in form of a civil-law partnership (*Gesellschaft bürgerlichen Rechts*, GbR) or a limited liability partnership (Gesellschaft mit beschränkter Haftung & Co. KG), GmbH & Co. KG).

Forest incentives and taxation

- Are there **effective subsidies** for forest owners and managers to implement SFM? And/or to carry out biodiversity conservation measures? If it does exist, please compare the total amount paid at national level in the last 3 years with available information with the amount defined as necessary at the Prioritised Actions Framework.

While the legislation establishes the right to subsidies or financial support, no effective subsidies for forest owners and managers to implement SFM have been identified during the desk research. As per other general information on subsidies and tax exemptions see first question under section 4.2.

- What taxes are applicable to Forest companies and forest owners?

As previously noted, forest owners and forestry companies are subject only to general taxation provisions:

- **Property tax** (*Grundsteuer*): Forest landowners are subject to property tax, which is levied on real estate, including forest land. The tax amount is determined based on the assessed value of the property by the local municipality. Property tax in Germany is categorized

68 Commercial Code of the 10 May 1897 (Handelsgesetzbuch vom 10 Mai 1895).

according to the land's purpose and use. Forest land typically falls under *Grundsteuer* A, which applies to agricultural and forestry enterprises.69

- **Income tax:** Income generated from forestry activities, such as timber sales, is subject to regular income tax. This applies to both individuals and entities that derive income from forest management.

69 Bundesfinanzministerium, Überblick zur Grundsteuerreform – Wie die Länder das neue Grund-steuerrecht umsetzen, November 2021.

9. Enforcement: Forest control and penalties.

- Are there specific measures in place to enforce compliance with the legal requirements on forest management?

  Please list only the legislative measures including the responsible body that are specific to forest management requirements.

Specific measures are in place to enforce compliance with legal requirements for forest management under the Bavarian Forest Act. These include:

- **Enforcement measures by the lower forestry authority:** If a forest owner fails to meet their obligations under the Act, the lower forestry authority can order the necessary measures to be carried out, under the threat of enforcement. Forest management and protection measures may only be imposed if they can be reasonably and economically carried out by the forest owner; otherwise, the lower forestry authority can implement these measures itself, with the forest owner required to tolerate such actions.70 If a substitute performance is ordered, the lower forestry authority can appoint suitable third parties, such as agricultural and forestry enterprises or their associations, to carry out the required measures.71
- **Enforcement measures by law enforcement officers:** Forest protection is assigned to law enforcement officers, forestry officials designated as forest protection agents, and certified private individuals authorized by local district administrative bodies. Their main purpose is to prevent and address violations related to forest protection, conservation, and illegal activities affecting forest resources.72
- **Administrative fines for non-compliance:** A fine of up to €25,000 may be imposed for intentional or negligent acts that destroy forests contrary to Article 9(1) BayWaldG, clear forests without permission under Article 9(2) BayWaldG, or engage in unauthorized clear-cutting in protection forests under Article 14(3) and Article 17(1) BayWaldG.73 Fines of up to €10,000 can be imposed for failure to comply with specific forestry measures ordered under Article 14(2) BayWaldG, unauthorized afforestation Article 16(1) BayWaldG, or violations of conditions tied to permits for clearing, clear-cutting, or afforestation Article 17(2) BayWaldG.74 Lastly, lesser fines of up to €2,500 may be imposed for unauthorized grazing, improperly managing livestock in a forest, or engaging in activities such as

70 Bavarian Forest Act of the 22 July 2005 (Bayrisches Waldgesetz (BayWaldG) in der Fassung vom 22. Juli 2005 (GVBl S. 313)), Section 30(1).
71 Bavarian Forest Act of the 22 July 2005 (Bayrisches Waldgesetz (BayWaldG) in der Fassung vom 22. Juli 2005 (GVBl S. 313)), Section 30(2).
72 Bavarian Forest Act of the 22 July 2005 (Bayrisches Waldgesetz (BayWaldG) in der Fassung vom 22. Juli 2005 (GVBl S. 313)), Sections 32 – 35.
73 Bavarian Forest Act of the 22 July 2005 (Bayrisches Waldgesetz (BayWaldG) in der Fassung vom 22. Juli 2005 (GVBl S. 313)), Section 46(1).
74 Bavarian Forest Act of the 22 July 2005 (Bayrisches Waldgesetz (BayWaldG) in der Fassung vom 22. Juli 2005 (GVBl S. 313)), Section 46(2).

unauthorized wood removal or interference with forest access controls under Article 17(3) BayWaldG.75

These measures are enforced primarily by the lower forestry authority, with the aim of ensuring compliance with forest management laws and protecting forest resources.

75 Bavarian Forest Act of the 22 July 2005 (Bayrisches Waldgesetz (BayWaldG) in der Fassung vom 22. Juli 2005 (GVBl S. 313)), Section 46(3).

10. Conclusions

10.1. Legal or regulatory barriers for SFM

- What are the main legal and regulatory barriers and enablers affecting the implementation of SFM in your country?

Enablers:

- The Federal Forest Act and the implementing federal state laws establish the foundation for SFM in Germany, emphasizing sustainability as a key objective (Section 1 BWaldG).
- PEFC and FSC certification systems support SFM by setting higher ecological, social, and economic standards for forest owners. These programs are widely adopted and demonstrate a commitment to sustainable practices, improving market access and public trust.76
- Germany aligns its SFM practices with EU directives, including Natura 2000 and biodiversity strategies, ensuring compliance with international conservation and sustainability goals. The Federal Nature Conservation Act and the related federal state conservation laws outlines this in their preamble.
- Closer to nature approach is recognised.
- Various financial support mechanisms, including subsidies and incentives under the Bavarian Agricultural Economy Act, promote sustainable practices such as afforestation, biodiversity conservation, and climate adaptation measures.
- The Federal Climate Protection Act and the Federal Climate Adaptation Act require climate-sensitive forestry practices, emphasizing the role of forests in climate mitigation and resilience.

Barriers:

- Ownership is highly fragmented, with a significant proportion of private forest owners managing plots under 20 hectares, making collective management and SFM implementation challenging. Fragmentation undermines economies of scale and efficient forest operations.
- The division of legislative powers between federal and state governments can lead to inconsistent SFM implementation due to variations in regional forestry laws.
- Certification under schemes like FSC and PEFC is not mandatory, leading to uneven adoption and compliance gaps, particularly among smaller forest owners.
- No financial support mechanisms have been made available.

76 Umwelt Bundesamt, Nachhaltige Waldwirtschaft, 8. March 2024.

- Are there specific legal and regulatory barriers or challenges to implement a closer-to-nature approach in forest management in your country?

Germany has not yet incorporated the newly published EU Commission guidelines on closer-to-nature forest management into its legal or regulatory framework. This can pose challenges in achieving a harmonized implementation of sustainable forestry practices across the country in line with evolving EU standards. While Germany has recognized and promoted a close-to-nature approach in its national strategies and in Section (3) BNatSchutzG there is no binding legal requirement for its adoption.

The lack of mandatory inclusion means that nature-friendly practices are often left to voluntary implementation or are applied inconsistently. This creates potential challenges for consistent application and monitoring across states, where different regulators may interpret and prioritise these principles differently.

Economic considerations may also limit uptake. Near-natural practices often involve lower timber yields and higher costs due to selective harvesting, habitat conservation and biodiversity measures. Without sufficient financial incentives or support mechanisms, some forest owners may be discouraged from fully adopting these practices.

- What are the main legal drivers for implementing a closer-to-nature approach in forest management for relevant actors?

The main legal drivers for implementing a closer-to-nature approach are:

- Section 5(3) BNatSchutzG foresees that the aim of forestry is to develop a close-to-nature approach and to manage forest sustainably.
- The National Forest Strategy (2021) promotes and maintains ecosystem-typical diversity throughout the forested landscape. This strategy emphasizes measures such as natural regeneration, the selection of diverse tree species, mixed-age and mixed-species stands, integrated forest protection, and nature conservation goals, including habitat and biodiversity preservation.
- The Forest Report 2021 elaborates on the close-to-nature, integrative, and sustainable management approach, highlighting its focus on maintaining and enhancing natural diversity, ecosystem health, and resilience. Measures include promoting genetic diversity, increasing deadwood for ecological purposes, protecting rare forest communities, and managing forest edges to promote biodiversity.

10.2. Legal or regulatory gaps in national forest legislation

Please provide key conclusions based on the information referred to in previous sections.

The legal and regulatory framework governing small forest owners in Germany is extensive, balancing forest conservation, biodiversity protection, and sustainable management with private ownership rights. The Federal Forest Act and respective state laws, such as the Bavarian Forest

Act, serve as the primary legal instruments governing sustainable forest management (SFM) practices. The framework balances private ownership rights with public interest goals, including forest conservation, biodiversity protection, and sustainable use.

Forest owners are subject to legally binding obligations, such as reforestation after harvest, adherence to sustainable management principles, and restrictions on practices like clear-cutting and land conversion, ensuring that forests retain their economic, ecological, and social functions. Voluntary certification systems (e.g., PEFC, FSC) provide additional mechanisms for promoting higher standards of sustainability but remain non-mandatory.

The distribution of competences between federal and state authorities reflects a decentralized approach, allowing for tailored regional implementation of forest management policies. However, this can lead to differences in regulatory application across states. State-level enforcement measures include oversight by lower forestry authorities, potential penalties for non-compliance, and mandatory forest management plans for corporate forests exceeding specific size thresholds.

National experts on forest legislation and references

- **Please provide the names and contacts of 3 to 5 experts in forest legislation in your country.**
    - Prof. Dr. Ewald Endres (Professor at the Faculty of Forest Law and Policy at the University of Applied Sciences Weihenstephan)

- Provide **key books or articles analysing the national and/or regional forest legislation** in your country, particularly if they compare it with other countries, if they analyse the effect in actual management of SFM.

Endres, E., Bundeswaldgesetz Kommentar (*Federal Forest Act Commentary*), Erich Schmidt Verlag, 2022.

PARTNERS



Funded by
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