

# **Integrated Biodiversity Management, South Caucasus**

**Functions and obligations of local self-governmental in regard  
to land management and environment related processes**



**Vardan Melikyan, Aida Iskoyan**

**Report**

**November, 2017**

## **Executive Summary**

The report summarizes the authorities of communities related to land management and environment related processes. To identify the authorities there has been conducted analysis of respective legislation, as well as discussions with respective professionals.

Particularly, special attention has been paid to respective provisions of RA Constitution, as well as the Land Code of RA and RA Law on Local Self-Government. In addition, there have been analyzed several other codes and laws related to the topic.

The report is structured as per respective papers of legislation field. Thus, respective provision of RA Constitution, individual codes and laws are presented in separate section. The most important authorities of the communities, related to land, waste, water management and environmental protection are presented in a table in the end of the report.

## Table of Content

Executive Summary .....	iii
List of Tables.....	v
1. Introduction .....	1
2. RA Constitution .....	2
3. Sectoral Codes.....	3
3.1 Land Code of RA .....	3
3.2 Civil Code .....	7
3.3 Water Code.....	7
3.4 Forest Code .....	9
3.5 Mining Code.....	11
4. Respective laws .....	12
4.1 Law on Local Self-Government.....	12
4.2 Law on Atmosphere Air Protection.....	13
4.3 Law on Environmental Impact Assessment and Expertise .....	13
4.4 Law on Nature Protection and Nature Utilization Payments .....	14
4.5 Law on Flora .....	14
4.6 Law on Waste .....	14
4.7 Law on Protected Areas.....	14
5. Other legal acts .....	16
6. Land management and environmental processes at marz and community levels.....	17
7. Conclusions.....	22
8. List of literature.....	23

**List of Tables**

Table 1. Functions, rights and responsibilities of local self-governance bodies in land management and environmental processes..... 17



## 1. Introduction

The objective of the report is to identify via analysis of legislation of the Republic of Armenia, what are: (1) land (private, community and state land resources) management and environment related processes on Marz and community levels, (2) Legal procedures, functions and obligations of local self-governmental bodies (on Marz and community levels) in regard to identified land management and environment related processes (e.g. pasture management) and (3) the interactions of local self-governmental bodies with each other and other stakeholders (e.g. other governmental bodies/ organizations, farmers, etc.) in regard to land management and environment related processes.

For that purpose, there have been identified the legislative acts related to the topic. Particularly, there have been used the following documents: RA Constitution, Forest, Land, Water, Civil and Mining Codes of RA, RA Laws on Waste Removal and Sanitary Cleanup, Nature Protection and Nature Utilization Payments, Flora, Property Tax, State Registration of Property Ownership, Waste, Fauna, Hydrometeorological Activities, Atmosphere Air Protection, Environmental Impact Assessment and Expertise, Local Self-Government, and Local Duties and Payments.

First, the report briefly presentation provisions of RA Constitution on local self-governance, environmental protection and property rights, then proceeds to respective laws, related to fields included in local self-governance bodies authorities. Finally, there are covered the sectoral laws, where details of respective functions of local self-governance bodies are presented.

It is also important to mention, that the authorities of communities, enlarged as a result of on-going administrative-territorial changes, will remain the same, but in the future the communities may get additional authorities, since it is assumed that enhanced capacities of these will develop conditions for further decentralization of the power.

## 2. RA Constitution

RA Constitution has been adopted in 1995, after which it has been amended twice, in 2005 and 2015. It declares human beings as the ultimate value in the Republic of Armenia, the protection of human rights and freedoms is the duty of the public power, and local self-governance is ensured as one of the fundamentals of democracy.

In accordance with Article 10 of the Constitution, related to guaranteeing ownership, all forms of ownership are recognized and protection, and subsoil and water shall fall under the executive ownership of the state. At the same time, foreign citizens and stateless persons shall not enjoy the right of ownership over the land, except for the cases provided by law.

A separate article is dedicated to community property, according to which community has ownership right on land and other property, land located on community territory belongs to it, if it is not owned by the state, natural and legal persons. Disposal of community land is delegated to the community council.

With regards to environment, it is mentioned in RA Constitution that the state shall promote its protection, improving and restoration, as well as reasonable use of natural resources, based on sustainable development principles and responsibility before future generations. The obligation of protection of environment is that of everyone.

Great attention is paid to local self-governance system. According to Constitution, local self-governance exercised in communities is the right and capacity of respective bodies to solve public issues of community importance.

Community council and mayor elected for a term of five years constitute local self-governance bodies, which can be elected directly or indirectly. Local self-governance bodies have own authorities and ones delegated by the state. The first includes solving of mandatory tasks established by law and volunteer tasks set by community council decrees.

The Council of Elders of a community shall, as prescribed by law, adopt sub-legislative acts subject to enforcement within the territory of the community. In turn, the head of community shall execute the decisions of the community council and be responsible before it, while managing the community staff.

### 3. Sectoral Codes

Other important legal acts defining community functions related to land management and environment protection are the codes regulating different fields, particularly, Land, Civil, Water, Forest and Mining Codes. Provisions of these are presented below.

#### 3.1 Land Code of RA

In accordance with the Code RA lands can have the following target positions or categories:

- Agricultural,
- Settlement,
- Industrial, for entrails-use and production,
- Energetic, transport, communicational, public structural,
- Specially protected areas,
- Special importance,
- Forestry,
- Water,
- Reserved land.

Besides, land of each target position also has soil type or operational importance, based on its type of use.

The Code has several provisions regarding land protection. Particularly, it is defined as a system of environmental, economic, organization and other measures, aiming for targeted and efficient use of lands, maintenance of limitations on its use, exception of its groundless removal from agricultural turnover, protection of water and wind erosion, swamping, salination, restoration and increasing of fertility.

Land protection objectives include:

- Protection, improvement of land fertility and efficient use of its other useful properties,
- Rehabilitation of altered land, its inclusion into the economic turnover,
- Release, protection and use of the fertile layer of the land, during implementing works concerning alteration,
- Protection of the land from watering and storms, swamping, repeated salination, solidification, contamination by industrial and economical wastes and chemical and radioactive substances, mud sliding, desertion and other aspects that negatively impact the condition of the land,
- Protection of agricultural and other lands from micro-parasitic and quarantine pests, and from other negative phenomena,
- Implementation of measures on protection and use of natural monuments; preserves and green belts,
- Definition of special regulatory provisions on land-use and measures for their implementation.



Implementation of the first five of presented clauses is the responsibility of land owners and users. Land protection and efficient use is implemented based on republican and regional earth engineering and nature protection programs, under financing of state (community) budget.

Lands contaminated for various reasons are removed withdrawn from agricultural turnover and can be transferred to reserved land target position for conservation purposes. Besides, production and realization of agricultural produce is prohibited in mentioned lands.

The Code has a separate article related to lands owned by communities. In accordance with mentioned article, the community owns such lands located within its borders, which are not owned by the state, citizens, legal entities and other subjects. Lands located outside the administrative borders of the community but donated to or purchased by the community can also be community propriety lands.

Besides, within two years after the adoption of the Code, the state propriety lands located within administrative borders of communities have been donated to communities.

In case of termination or procedurally defined (Article 102 of the Land Code) abortion of the rights or refusal of the landowner from lands located in the administrative borders of the community and belonging to citizens and legal entities by the right on property, those lands are transferred under the property of the community according to defined procedures. Besides, according to procedures defined by the Civil Code, local self-governance bodies can take the lands belonging to citizens and legal entities for community needs and by paying the market price for them.

Community owned lands are managed and disposed by community mayor and council, according to defined procedures. Unity, exchange and reallocation of community lands within different communities is performed according to defined procedures.

Within the framework of their authorities, local self-governance bodies regulate land relations, and their acts regulated land relations are valid throughout the whole territory of the community and are obligatory for implementation by landowners and users.

Besides, on the basis of decisions made by the local self-governing bodies the lands belonging to the community can be sold or transferred to citizens and legal entities with ownership and use rights.

The State and community owned lands are provided by the ownership and use rights according to and on the basis of land zoning and use schemes and master plans. In turn schemes of zoning and use of the lands located within the administrative borders of the communities and master plans are developed by community heads, for lands located outside of border, by marzpets. After coordination of these with respective authorized bodies in established order, mentioned documents are submitted for approval by the Government. Together with approval, the Government also permits changing of target position of lands, authorizes the community heads and marzpets to provide lands under ownership or using rights.

Transfer of state and community lands to citizens and legal entities is forbidden, if these are:

- Objects of historical and cultural significance,
- State natural preserves within specially protected areas, State natural reserves, natural monuments, national parks, arboretums, botanical gardens and areas reserved for other purposes,
- Medical areas, the list of which is defined by the Government, that are located to sanitary protection belts, protected by the law,
- Occupied by State propriety forests,
- Lands of aerial objects included in the State ameliorative systems and/or water funds, the list of which is defined by the Government,
- Lands of general use (Squares, streets, roads, river banks, parks, public gardens, gardens, beaches, and other public use areas) located to residential areas,
- Stet assessed and registered locations of mineral resources,
- Subject to radioactive and chemical contamination; biogenic infection,
- Provided to State scientific investigative organizations (Educational, selective and etc.) in accordance to procedures defined by the Government till their liquidation in accordance to defined procedures,
- Due to decisions taken by the local self-governing bodies, occupied by pastures, cattle pathways, roads, natural wells, springs and other objects located outside the administrative borders of the community,
- Lands separated (reserved) for water objects and the riparian areas of the basins, car and train roads for public use, pipes and other transportation means, electric wiring, pipe water supply and water drainage systems, gas pipes, canals, as well as areas foreseen for their perspective expansion,
- Disputable areas, till the resolution of the dispute,
- Lands of special significance; military and civil cemeteries.

State and community owned lands can be alienated, provided under leasing right or donated. The latter is possible for agricultural purposes or as homestead land or for construction and maintenance of a private house, in the following cases:

- In bordering, mountainous, highland, earthquake disaster areas and abandoned settlements (The list is defined by the Government) to families that had not previously disposed (Purchased) property rights and/or lands for construction of and attached to their household economies,
- To other families living in the Republic of Armenia that will express their wish to establish permanent residence in residential areas mentioned in the 1st sub-point of the 1st point of this article,
- To resettled families and in accordance to decisions of the Government of the Republic of Armenia,
- To families of dead or disabled veterans and families having six or more children that had not previously disposed, two parent orphans, living in given communities, who have not previously used land privatization (purchased), did not obtain lands for construction of a house or its maintenance.

The right of construction on state and community owned lands can be granted through tender, for construction of residential, public and industrial facilities, separate districts and

civil engineering complexes. The land can be constructed by both the state or community budget and investment of constructor. Terms and order of tender for provision of construction right are defined by the Government, and community head can define additional terms of tender.

State and community owned lands are provided under tenancy rights in accordance with land zoning and master plans, for temporary use. If state and community lands are located within administrative borders of community, then these are provided under tenancy rights by community heads, and state lands located outside of administrative territory are provided by marzpets. Lands are provided under leasing right through tender, to the following subjects:

- The citizens of the Republic of Armenia,
- Legal entities of the Republic of Armenia and foreign states,
- Foreign residents and non-citizens, persons with special residential status in the Republic of Armenia,
- Foreign states and international organizations.

Cases of land provision under tenancy rights without a tender are defined by the Government.

State and community owned lands are provided to citizens and legal entities for agricultural activities under leasing right for periods defined by the Code. Pastures are provided for cattle breeding purposes, and necessary land norm for one head is defined by respective state authorized body.

Lands allocated for cultivation are used for plant growing. Cultivation of long-term plants and plantation is prohibited on mentioned territories, if the contract period does not enable it and no other provisions are envisaged by the contract.

The rights on land, provided for hay collection and livestock pastures from the State and community owned land, including the forest fund, are subject to state registration. In equal conditions, land provision the privilege will be given to residents of given community or marz.

The rights on land are compulsively terminated through judicial procedures, by the following bases:

- The use of land not in its target position or not in compliance to the law or other legal acts,
- Failure to eliminate the violations of the law in the defined period of time by the authorized body that implements control over land-use and protection (Pollution of land by radioactive and chemical substances, contamination of land by parasitic and quarantine harmful organisms, covering of land by weeds, violation of the deadlines for return of the occupied lands, elimination of the fertile layer of the land, violation of the legal regime defined for use of specially protected and historical-cultural areas, use of the land in methods that endanger the human state of health and etc.),
- Non-use of agricultural land for three years, with the incompliance to the deadlines for land obtainment, ameliorative constructions, rehabilitation of land after natural disasters and implementation of measures for prevention of such use,

- Non-use of land or the part of it provided for construction for a period of three years, if the contract does not envisage longer period for the completion of the construction,
- Non-payment of the land tax for three years and the debt during the fourth year,
- Land requisition,
- Land confiscation,
- Confiscation of land for state and community purposes,
- Compulsory charging of land, in accordance to the responsibilities of the landowner.

Land can be taken from citizens and legal entities for state and community needs based on land zoning and use schemes, master plans of settlements. The purchase price, time periods and conditions of use of lands taken for state and community needs are determined by under consent of landowner, and in case of disagreement – in judicial order.

Marzpet implements control over:

- The activity of Community Leaders concerning the land relations,
- Implementation of community land zoning and use schemes and basic plans,
- Allocation and removal of State and community owned land, charging of fees and taxes for land, implementation of land protection measures,
- Implementation of country and regional projects within the area of marz,
- Target use of the available land, implementation of land legislation requirements by the users,
- Maintenance of territorial divisions.

Marzpet prevents, anticipates and eliminates illegal land-use outside the areas of the community land; assigns fines, in cases envisaged by the law.

### **3.2 Civil Code**

The Code includes several provisions, which to some degree relate to functions and obligations of local self-governance bodies in land management and environmental process. Some of these are more important and particularly include subjectivity of the communities under civil legislation, according to which communities shall enter into relations regulated by civil legislation and other legal acts communities on equal principles with other participants in these relations—citizens and legal persons.

Local self-governance bodies, within the limits of their competence, may acquire and exercise property and personal non-property rights and duties and also appear in court. Besides, In the cases and by the procedure provided by legal acts of communities, legal persons and citizens may act in the name of communities.

### **3.3 Water Code**

Main principles of management, utilization and protection of water resources and water systems, subject to regulation of the Code, include:

- Satisfaction of the basic vital needs of the present and future generations,
- Maintenance and increase of volumes of the national water reserve,

- Protection of aquatic and related ecosystems and their biological diversity as well as recognition of integrated and interconnected relations of land, air, water and biological diversity,
- Water use shall be regulated through water use permits,
- Non-competitive water supply systems management and tariffs shall be regulated through water system use permits,
- Encouragement of fair principles of useable water resources accessibility,
- Encouragement of efficient use of water resources for public interest,
- Acceptance of conjunctive and integrated management of ground and surface water resources,
- Planning and satisfaction of increasing public and economic demand for useable water resources,
- Taking into consideration the economic value of water in the procedures of use, allocation and protection of water resources. At the same time water is a heritage that shall be protected, conserved and used as such regarding the future generations' interest,
- There is no alternative to water, it has environmental and economic value not only in case when it is used but also when it is not used. The economic value of water is mainly composed of the sum of drinking, environmental, energetic potential and agricultural values of water,
- Water opportunity costs consist of the utmost benefit, which could be achieved, if water has been used by any other alternative project and purpose,
- In order to make available the use of the minimum sufficient quantity and necessary quality of water for a consumer the regulated tariff is established based on the abated price of water scarcity,
- In case if the determined size of regulated tariff is less than the value of calculated tariff, deficit of money entrance to the state budget from water use is envisaged in forms of subsidies or as tax privileges defined by the legislation of the Republic of Armenia. Alongside with increasing ability of water users to pay, the additional payments shall decrease and the size of regulated tariff shall be drawn to the value of calculated tariff,
- Allocation and use of water resources on payable basis by applying guaranteed fees for water use. Allocation of useable water resources free of charge is applied only in cases envisaged by the present Code, in accordance with procedure defined by the Government of the Republic of Armenia,
- Recognition of importance of public participation and awareness in the processes of management and protection of water resources,
- Increasing the efficiency of water supply and wastewater systems,
- Encouragement of safety and use efficiency of HTS's,
- Provision of food and national security in water relationship,
- Water resources, water supply and wastewater systems are considered as objects of vital security and shall be protected in the order established by law and other legal acts,
- Building capacities to manage, confront and avoid the disastrous consequences of floods and droughts,

- Water resources pollution mitigation and prevention,
- Compensation of the costs of polluted waters treatment by a polluter,
- Prohibition of satisfaction of water users' needs at the expense of the ecological water releases.

Taking into consideration these principles, water resources are subject to protection, the requirements towards which are the following:

- The use of water resources is permitted only in conditions of their protection and restoration,
- The water resources are a constituent part of the ecosystem and the natural landscape, and their protection shall be stipulated by the maintenance of balance within the given ecosystem,
- The water resources shall be subject to protection when used, as well as when not used,
- If not used, the protection of water resources must maintain the balance and welfare in the given ecosystem completely when it comes to the water issue,
- If used, the protection of water resources must maintain the balance in the given ecosystem,
- Water resources shall be subject to protection from pollution, littering, infection and depletion,
- Wastewater discharge shall be permitted only in conformance with the requirements of this Code, if a corresponding water use permit for such discharge is available,
- No disturbance to water protection zones shall be allowed, unless otherwise provided by this Code,
- Specific types of activities (including irrigation of land with wastewater, operation of industrial or commercial enterprises producing, using or storing solvents or chemicals, installation of refuse heaps for raw materials, substances, waste and other products and stuff accumulated during the economic operation process) may be restricted or prohibited in ground water protection zones,
- Exploration wells, pressure wells suspended but still fit for use shall be subject to conservation or destruction,
- Emission, outflow or burial of radioactive and toxic waste in water resources is prohibited. Explosion operations in water objects by using nuclear or other technologies associated with the discharge of radioactive and toxic substances, is prohibited.

### **3.4 Forest Code**

In the Republic of Armenia forests and forest lands can be under state, community and private ownership, in addition, forest established on the lands owned by communities, legal persons and citizens by their owners shall be regarded as their property, which shall be subject registration in respective order.

In accordance with the Code, forest owners have the following rights:

- Possession (holding), use, dispose of forests and running of forest economy according to this Code without damaging the environment,
- Definition of the order of forest use in the forests according to the legislation of the Republic of Armenia,
- Setting of tariffs for forest use,
- Setting terms and fee for lease contract,
- Organization of leasing out forest lands according to the order established by the legislation of the Republic of Armenia,
- The right to get indemnification for the damage in case of allocation of an area for forest roads envisaged by the forest management plans.

Forest owner has the following responsibilities:

- Ensure guarding and protection of forests;
- Ordering and implementation of the forest management plans;
- Organization of rational use of forest resources and lands according to the forest management plans;
- Enhancement and maintenance of forest land fertility, safeguarding of their special purpose use;
- Forest rehabilitation and afforestation, improvement of their productivity and tending;
- Implementation of fire safety measures on forest lands, fire spotting and prevention of forest fires, prevention of the harmfulness of pests and diseases;
- Timely spotting and prevention of activities having no connection with forest use on the territory of state forest lands, as well as of illegal loggings, damaging and destruction of trees, bushes, young plantations and forest cultures, pollution of forests by chemical, radioactive substances, wastewater and municipal-domestic waste and other infringements of forest legislation;
- Allocation of an area for state forest roads envisaged by the forest management plans.

The owners of non-state forests and forest lands, including communities, shall be obliged to provide the state management body in the sphere of sustainable forest management with the data for state forest cadastre maintenance and state stock-taking of forest lands.

The Code provides individual provisions regarding the authorities of local self-governance bodies in terms of sustainable forest management, including the following:

- Possession, use, disposal of community forests and running of forest economy according to this Code,
- Participation in the development of state programs and safeguarding of their implementation within their administrative territories according to the order determined by the law,
- Involvement of specialized services, forest users and population in the works to fight forest fires,
- Management of state forests given for community management,
- Giving consent to change special-purpose significance of lands and carry out engineer-geological studies for the activities on construction, blasting, extraction of

useful minerals, installation of cables, pipe-lines and other communications, drilling and others having no connection with the running of forest economy and forest use on community forest lands.

The users' rights towards forests and forest lands allocated from state and community forests or forest lands or obtained on other bases can be restricted by the followings:

- Prohibition to give on lease or sub-lease,
- Requirement to maintain points of the state geodesy network located in forests and forest lands,
- Prohibition of certain types of forest use,
- Prohibition of the change of special-purpose use of forest lands,
- Provision to follow environmental requirements or carry out certain works, including protection of fauna, soil layer, rare plants, natural, historical and cultural monuments and paleontological objects,
- Provision to give the right for hunting, fishing and collecting wild plants within determined timeframe and by determined order,
- Provision to protect existence of wild animals, their habitats and migration routes,
- Cases of discrepancy with the forest management plans,
- Other obligations, restrictions or provisions.

The owner can transfer the forest for accredited management to the accredited manager for up to 10-year period on the basis of an accredited forest management contract. State forests located within administrative borders of communities shall be transferred to community organizations for accredited management without competition by the order determined by the Government of the Republic of Armenia.

Community forest control over sustainable forest management within administrative borders of communities shall be done by local self-governing bodies, in order determined by law.

### **3.5 Mining Code**

The Code has certain provision related to communities. Particularly, authorities of local self-governance bodies include signing of mining agreement with holder of mining rights by the community head, in accordance with community council decree. Besides, submission of restoration program for lands disturbed as a result of mining for the consent of community head.



## 4. Respective laws

The next group of legal acts regulating the field are respective laws, including the laws on Local Self-Governance, Waste Removal and Sanitary Cleanup, Nature Protection and Nature Utilization Payments, Flora, Property Tax, State Registration of Property Ownership, Waste, Fauna, Hydrometeorological Activities, Atmosphere Air Protection, Environmental Impact Assessment and Expertise, and Local Duties and Payments.

### 4.1 Law on Local Self-Government

Given law is one of the key acts regulating the relations of state and local self-governance bodies. It regulated several provisions related to land management and participation in environmental processes by local self-governance bodies.

Particularly, the activities of community head in terms of protection of rights of citizens and businesses include, among others, realization of delegated authorities of the state, aimed at prevention of technogenic disasters, as well as elimination of consequences of natural and technological disasters.

In urban development and land use fields community head has numerous mandatory and delegated authorities, which include, among other, the following:

- Development of urban development charter of community, its submission for community council approval,
- Notification of the population in established order about the planned changes in urban development environment, issue architectural and planning tasks to the constructors, coordination of architectural and planning drafts,
- Provision of permits for construction (demolition) activities, documenting of construction completion acts, in established order,
- As prescribed by the law, supervision of execution of tasks issued to constructors regarding the architectural and building assignments, requirements of urban development charter of the community, targeted utilization of the community lands, buildings and structures,
- Prevention and precluding of unauthorized construction activities and land occupation, arranging of removal of deriving consequences within a period of one month in the manner defined by the legislation,
- Conduction of urban development and land cadastre of the community, and provision of information to the State Committee of Real Estate Cadastre, bodies of urban development and land cadastre,
- Carrying out of land balance of the community in accordance with the established procedure.

In the field of public utilities and provision of amenities the community head organizes waste removal, maintenance and protection of recreational areas, construction and operation of sanitary cleanup stations.

In agriculture field community head implements the following delegated and voluntary authorities:

- Organization of works related to prevention of plant diseases, struggle against pests and weeds in the territory of the community,
- Organization of provision of veterinary services, performance of anti-epidemic arrangements and in observance of rules for prevention of animal diseases and other agricultural rules in the territory of the community,
- Assistance to implementation of agricultural works,
- Assistance to pedigree and seed development activities.

In nature and environment protection field community head has the following mandatory and delegated authorities:

- Organization of maintenance of lands, forest and water reserves that are property of the community, as well as environment protection,
- Organization of supervision in the sphere of nature protection, as well as assistance in the arranging for the use and protection of entrails, forest, water areas, atmosphere, flora and fauna,
- Ensuring protection of lands from sliding, flood, mooring, and pollution by chemicals and radioactive agents and industrial waste.

#### **4.2 Law on Atmosphere Air Protection**

Regulation framework of the Law includes authorities of marzpetarans regarding protection of atmosphere air, which include development and ensuring implementation of atmosphere air protection element within marz environmental programs, organization of inter-community cooperation in affected communities of marz, as well as implementation of measures aimed at elimination of threats to human life and health under unfavorable meteorological conditions.

#### **4.3 Law on Environmental Impact Assessment and Expertise**

Local self-governance bodies have several authorities related to assessment and expertise processes. These include:

- Provision of opinion regarding the provisions of foundation document related to community and (or) planned activities,
- Ensuring notification regarding foundation document and (or) planned activities, the process of assessment and expertise of impact of these, organization of public hearings and public participation, within the limits of its authorities and in order established by present law,
- Provision of information on effective foundation documents related to area, upon initiators request,
- Within the process of environmental impact assessment, provision of respective consultation to initiator, as well as any other information needed for conduction of impact assessment.

Besides, for the purpose of ensuring notification and participation of public, with regards to public notification and discussion of assessment and expertise processes, territorial administration bodies and community had are obliged to notify the society about the

foundation document and planned activity and implementation of the process of assessment of impact of these, at least 7 working days prior to hearings.

#### **4.4 Law on Nature Protection and Nature Utilization Payments**

According to law nature protection payment is a mandatory payment to state budget for the purpose of generation of funds for implementation of environmental measures, and in cases provided by law, to community budget.

#### **4.5 Law on Flora**

Authorities of local self-governance bodies in this field are defined by Law on Local Self-Government.

#### **4.6 Law on Waste**

In the field of waste local self-governance bodies have the following authorities:

- Conduction of supervision of waste removal,
- Development of schemes of sanitary cleanup of territories,
- Liquidation of uncontrolled and unauthorized waste landfills,
- Organization of participation of population in collection of non-dangerous waste with resource value.

#### **4.7 Law on Protected Areas**

With respect to communities the Law has several important clauses. Particularly, the Law envisages that protected areas of local significance can also be established on community owned lands.

The lands of community owned protected areas cannot be alienated to citizens and legal entities without changing of category of these by RA Government in established order.

With respect to protection and use of protected areas local self-governance bodies have the following authorities:

- Participation in development of state programs and management plans related to international and republican protected areas located within the administrative borders of community and implementation of these within the framework of their authorities,
- Support to ensuring the protection regime of international and republican protected areas located within the administrative borders of community,
- Submission of proposal to authorized public entity regarding establishing of protected areas of local significance within the administrative borders of community,
- Management of protected areas of local significance located within the administrative borders of community,
- Organization of protection, use, monitoring and scientific studying of protected areas of local significance located within the administrative borders of community, development of management plans,

- Provision of necessary information to authorized public entity regarding protected areas of local significance located within the administrative borders of community,
- Support to awareness raising of the public on protected areas, as well as to development and implementation of scientific and educational programs.

Studying of protected areas, as well as protection and environmental measures related to protected areas located on community owned lands and protected areas of local significance located on private lands is conducted using community budget means too.

Finally, in accordance with the Law the communities can be users of territories of protected lands and natural resources of these.

## 5. Other legal acts

Decree of RA Government of April 14, 2011, N 389-N on Setting the order of utilization of pastures and grasslands in the Republic of Armenia, sets the conditions of management and efficient use of pastures and grasslands located on lands owned by the state. Objectives and tasks of given decree include promotion of protection and sustainable and efficient use of grasslands and pastures, development of favorable conditions for increasing and restoration of productivity, prevention of deterioration of qualitative characteristics and environmental situation, as well as promotion of ensuring maintenance of sanitary situation.

According to given decree prior to use of pastures there is developed a use plan of these, based on the number of animals and productivity of pasture, turnover of pastures is applied. Each year, based on conditions of given year, there are set the beginning and end of pasture season. Besides, there are defined the norms and criteria needed for efficient use of pastures.

The decree also defined the best period for haying, depending on prevailing vegetation, the duration of haying, as well as the norm of haying in the end of the season every third year, which enables production of seeds and natural regeneration of plants.

## 6. Land management and environmental processes at marz and community levels

Present Chapter summarizes in a table the functions, rights and responsibilities of local self-governance bodies related to land management and environmental process, particularly, pasture and waste management, changing of land target position, etc.

**Table 1.** Functions, rights and responsibilities of local self-governance bodies in land management and environmental processes

Sector	Respective legal act(s)	Functions, rights and responsibilities
Land property right	Land Code	The community owns such lands located within its borders, which are not owned by the state, citizens, legal entities and other subjects. In addition, lands located outside the administrative borders of the community but donated to or purchased by the community can also be community propriety lands. Besides, state propriety lands located within administrative borders of communities have been donated to communities.
Land (pasture) management	Land Code, Law on, Local Self-Government, Decree N 389-N of RA Government of April 14, 2011	<p>Community owned lands are managed and disposed by community mayor and council. Besides, unity, exchange and reallocation of community lands within different communities is performed according to defined procedures.</p> <p>on the basis of decisions made by the local self-governing bodies the lands belonging to the community can be sold or transferred to citizens and legal entities with ownership and use rights.</p> <p>At the same time, there are set certain limitations related to transfer of community and state lands to citizens and legal entities, if lands are occupied by state forests. Besides, transfer of community and state lands to citizens and legal entities is forbidden, if lands are occupied by common use pastures, cattle located outside the administrative borders of the community</p> <p>In nature and environment protection field the authorities of community head include organization of maintenance of lands that are property of the community.</p> <p>Pastures are provided for cattle breeding purposes, and necessary land norm for one head is defined by respective state authorized body.</p> <p>The rights on land, provided for hay collection and livestock pastures from the State and community owned land, including the forest fund, are subject to state registration.</p>
Waste management	Land Code, Forest Code, Law on Local Self-Government, Law on Waste	<p>In the field of waste local self-governance bodies have several authorities, part of which is directly fixed by laws, and the others originate from laws that are not directly related to communities. The first include the following:</p> <ul style="list-style-type: none"> <li>• Conduction of supervision of waste removal,</li> <li>• Development of schemes of sanitary cleanup of territories,</li> <li>• Liquidation of uncontrolled and unauthorized waste landfills,</li> </ul>

		<ul style="list-style-type: none"> <li>• Organization of participation of population in collection of non-dangerous waste with resource value.</li> </ul> <p>At the same time, for instance, land protection tasks include protection of lands from industrial and domestic waste, contamination by chemical and radioactive materials, which is also related to communities.</p> <p>As forest owner communities may have responsibilities related to timely identification and prevention of pollution of forests by municipal-domestic waste and other violations of forest legislation.</p>
Protection of water resources	RA Constitution, Land Code, Water Code, Law on Local Self-Government	<p>In accordance with Constitution, water resources are the exclusive property of the state, thus the authorities in given field are not wide.</p> <p>Particularly, transfer of community and state lands to citizens and legal entities is forbidden, if these are lands of aerial objects included in the State ameliorative systems and/or water funds, the list of which is defined by the Government, water objects and the riparian areas of the basins.</p> <p>In nature and environment protection field the authorities of community head include organization of maintenance of water reserves that are property of the community, arranging for the use and protection of water areas.</p>
Forest management	Land Code, Forest Code, Law on Local Self-Government	<p>In case of owning of forests communities have the following authorities:</p> <ul style="list-style-type: none"> <li>• Possession (holding), use, dispose of forests and running of forest economy according to this Code without damaging the environment,</li> <li>• Definition of the order of forest use in the forests according to the legislation of the Republic of Armenia,</li> <li>• Setting of tariffs for forest use,</li> <li>• Setting terms and fee for lease contract,</li> <li>• Organization of leasing out forest lands according to the order established by the legislation of the Republic of Armenia,</li> <li>• The right to get indemnification for the damage in case of allocation of an area for forest roads envisaged by the forest management plans.</li> </ul> <p>And the responsibilities include the following:</p> <ul style="list-style-type: none"> <li>• Ensure guarding and protection of forests;</li> <li>• Ordering and implementation of the forest management plans;</li> <li>• Organization of rational use of forest resources and lands according to the forest management plans;</li> <li>• Enhancement and maintenance of forest land fertility, safeguarding of their special purpose use;</li> <li>• Forest rehabilitation and afforestation, improvement of their productivity and tending;</li> <li>• Implementation of fire safety measures on forest lands, fire spotting and prevention of</li> </ul>

		<p>forest fires, prevention of the harmfulness of pests and diseases;</p> <ul style="list-style-type: none"> <li>• Timely spotting and prevention of activities having no connection with forest use on the territory of state forest lands, as well as of illegal loggings, damaging and destruction of trees, bushes, young plantations and forest cultures, pollution of forests by chemical, radioactive substances, wastewater and municipal-domestic waste and other infringements of forest legislation;</li> <li>• Allocation of an area for state forest roads envisaged by the forest management plans.</li> </ul> <p>Communities shall also be obliged to provide the state management body in the sphere of sustainable forest management with the data for state forest cadastre maintenance and state stock-taking of forest lands.</p> <p>In terms of sustainable forest management, the authorities of local self-governance bodies include the following:</p> <ul style="list-style-type: none"> <li>• Possession, use, disposal of community forests and running of forest economy according to this Code,</li> <li>• Participation in the development of state programs and safeguarding of their implementation within their administrative territories according to the order determined by the law,</li> <li>• Involvement of specialized services, forest users and population in the works to fight forest fires,</li> <li>• Management of state forests given for community management,</li> <li>• Giving consent to change special-purpose significance of lands and carry out engineer-geological studies for the activities on construction, blasting, extraction of useful minerals, installation of cables, pipe-lines and other communications, drilling and others having no connection with the running of forest economy and forest use on community forest lands.</li> </ul> <p>Community forest control over sustainable forest management within administrative borders of communities shall be done by local self-governing bodies, in order determined by law.</p> <p>In nature and environment protection field the authorities of community head include organization of maintenance of forests that are property of the community, and arranging for the use and protection of forests.</p>
Protection of flora	Law on Local Self-Government, Law on Flora	In nature and environment protection field the authorities of community head include organization of arranging for the use and protection of flora.
Protected areas	RA Law on Protected Areas	Protected areas of local significance can also be established on community owned lands. The lands of public, as well as community owned protected areas cannot be alienated to citizens and



		<p>legal entities without changing of category of these by RA Government in established order.</p> <p>With respect to protection and use of protected areas in the Republic of Armenia local self-governance bodies have the following authorities:</p> <ul style="list-style-type: none"> <li>• Participation in development of state programs and management plans related to international and republican protected areas located within the administrative borders of community and implementation of these within the framework of their authorities,</li> <li>• Support to ensuring the protection regime of international and republican protected areas located within the administrative borders of community,</li> <li>• Submission of proposal to authorized public entity regarding establishing of protected areas of local significance within the administrative borders of community,</li> <li>• Management of protected areas of local significance located within the administrative borders of community,</li> <li>• Organization of protection, use, monitoring and scientific studying of protected areas of local significance located within the administrative borders of community, development of management plans,</li> <li>• Provision of necessary information to authorized public entity regarding protected areas of local significance located within the administrative borders of community,</li> <li>• Support to awareness raising of the public on protected areas, as well as to development and implementation of scientific and educational programs.</li> </ul> <p>Studying of protected areas in the Republic of Armenia, as well as protection and environmental measures related to protected areas located on community owned lands and protected areas of local significance located on private lands is conducted using public and (or) community budget means, as well as means of local and international donor organizations and other sources of financing not forbidden by law.</p> <p>The state, represented by authorized public entity, individual and legal entities can be users of territories of protected lands and natural resources of these in the Republic of Armenia.</p>
Atmosphere air protection	Law on Atmosphere Air Protection	<p>Authorities related to atmosphere air protection are delegated to marzpetarans and include development and ensuring implementation of atmosphere air protection element within marz environmental programs, organization of inter-community cooperation</p>

		in affected communities of marz, as well as implementation of measures aimed at elimination of threats to human life and health under unfavorable meteorological conditions.
Environmental protection	RA Constitution, Forest Code, Law on Local Self-Government, Law on Environmental Impacts Assessment and Expertise	<p>According to Constitution, the obligation of protection of environment is that of everyone, thus communities are also included.</p> <p>In nature and environment protection field the authorities of community head include organization of environmental protection.</p> <p>Local self-governance bodies have several authorities related to assessment and expertise processes. These include:</p> <ul style="list-style-type: none"> <li>• Provision of opinion regarding the provisions of foundation document related to community and (or) planned activities,</li> <li>• Ensuring notification regarding foundation document and (or) planned activities, the process of assessment and expertise of impact of these, organization of public hearings and public participation, within the limits of its authorities and in order established by present law,</li> <li>• Provision of information on effective foundation documents related to area, upon initiators request,</li> <li>• Within the process of environmental impact assessment, provision of respective consultation to initiator, as well as any other information needed for conduction of impact assessment.</li> </ul>

## 7. Conclusions

Participation of communities in land management and environment-related processes is quite significant. Respective authorities of communities are fixed in the Constitution, several codes and laws. Particularly, the Constitution includes important provisions related to local self-governance and right for property.

RA Land Code includes land protection objectives and tasks, issues related to lands owned by communities, procedures of provision of these under different formats, where community also takes part. Participation of community in relations regulated by civil legislation and other legislative acts is presented in Civil Code.

Water, Forest and Mining Codes present authorities of communities in respective fields, particularly, in terms of management, use and protection of resources, and limitations.

RA Law on Local Self-Government presents more details on authorities of communities in different sectors, including land management and environment related processes.

Laws used in the report regulate authorities of communities in respective sectors, particularly, atmosphere air protection, environmental impact assessment and expertise, nature protection and nature utilizations payments, flora and waste.

It is also important to note, that within the context of on-going territorial-administrative reforms there are not foreseen any changes in authorities of communities for now, but taken into consideration that as a result of reforms communities may become stronger, these can get additional authorities, as a logical continuation of further decentralization of power.

## 8. List of literature

1. RA Civil Code
2. RA Constitution
3. RA Forest Code
4. RA Land Code
5. RA Law on Atmosphere Air Protection
6. RA Law on Environmental Impact Assessment and Expertise
7. RA Law on Fauna
8. RA Law on Flora
9. RA Law on Hydrometeorological Activities
10. RA Law on Local Duties and Payments
11. RA Law on Local Self-Government
12. RA Law on Nature Protection and Nature Utilization Payments
13. RA Law on Property Tax
14. RA Law on State Registration of Property Ownership
15. RA Law on Waste
16. RA Law on Waste Removal and Sanitary Cleanup
17. RA Mining Code
18. RA Water Code





german  
cooperation

DEUTSCHE ZUSAMMENARBEIT

represented by

**giz** Deutsche Gesellschaft  
für Internationale  
Zusammenarbeit (GIZ) GmbH

**Integrated Management of Biodiversity,  
South Caucasus IBIS**

GIZ Programme Office Armenia

4/1 Baghramyan Street  
0019 Yerevan  
Republic of Armenia  
T +374 (0)10 581877  
[www.giz.de](http://www.giz.de)  
[www.biodivers-southcaucasus.org](http://www.biodivers-southcaucasus.org)

**Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH**