

ANALYSIS OF THE LEGISLATION AND INSTITUTIONAL FRAMEWORK FOR COLLECTION OF PLANT
RESOURCES

Report

6/15/2020

AUA Acopian Center for the Environment

Heghine Grigoryan

Content

List of acronyms.....	3
Introduction.....	4
RA Legislation on the collection of plant resources.....	5
Permit on the collection of plant resources (indirect use of forest).....	8
Issues and peculiarities of the application of nature utilization payments for collectors, processors and retailers	11
Other economic tools.....	11
Control and responsibility.....	13
The system of competent bodies and their power/commission	13
The role of local self-government bodies	19
Appendix 1. The list of legal acts.....	20

List of acronyms

SPNA – Specially Protected Nature Areas

COAO – Code of Administrative Offences of Republic of Armenia

UNDP – United Nations Development Program

SNCO – State Non-Commercial Organization

LSGB – Local Self Government Body

Introduction

1. The aim of this analysis is to present approaches to the development of legal solutions to the collection of plant resources in RA and to the institutional structure of the field, which will be presented to the decision-makers, businesses, civil society, and other stakeholders.
2. The proposed approaches are based on international experience and the analysis of the current legislation of RA, taking into account the peculiarities of the environmental and related legislation of RA.
3. The approaches proposed in the frames of this analysis present some directions of legal regulations, which can become a topic for broad discussions and serve as a ground for making amendments and additions to the corresponding legal acts.
4. Currently, the collection of plant resources is carried out spontaneously without adhering to the requirements set by the legislation. Such a practice leads to unsustainable use of bio-resources. At the same time, the payments for the utilization of state-owned resources are not made.
5. The collection of plant resources is carried out both in forests and in SPNAs as well as in state-owned, community-owned agricultural lands and lands of other significance¹. In contrast to some legal regulations of collection of plant resources in forests and SPNAs, the collection in state- and community-owned agricultural lands and in lands of other significance are not included of the scope of legal regulation.
6. There is no preliminary data on the number of plant resources and their collection procedures in state- and community-owned lands which are not included in forests and specially protected nature areas. The scope of this program does not give the possibility to carry out such an assessment and research which would later be the ground for legal analysis. Moreover, according to the first article of RA Law on Flora, plants growing in agricultural areas are not considered plant resources, consequently, they are beyond the scope of this analysis. It is beyond doubt that the research of these issues can help to gain insight into the market structure and the share of consumed products in the market, which are collected from the lands beyond the areas of forest funds and it can be a subject of additional research.
7. The above-mentioned issue indicates that the rules and requirements defined by law are not fully met, which shows the ineffectiveness of legal regulations as well as issues with the oversight. It is, therefore, necessary to re-evaluate their effectiveness and review the existing approaches in order to improve the effectiveness of legal regulation and bring the existing collection practices into legal field.

¹ More than 68% of land fund of the Republic of Armenia (RA Government Decision N 1379, 03.10.2019) are agricultural lands. The 51% of the above-mentioned lands are pastures and 6% is grasslands. Moreover, according to the ownership pattern, 97% of pastures and 55% of grasslands are considered community-owned and state-owned and the rest are considered as private property. Natural fodders are considered as main food source for large and small cattle and legal regulations of use (incomplete regulations) refer to this field. Whereas these ecosystems provide a number of other services, namely being the source of food, herbs and technical plants. Many endemic rare species, that are registered in the Red book of RA grow here. For plant collection people do not make the payment for the use of natural resources, naturally without taking into account the natural possibilities of reproduction of flora resources.

RA Legislation on the collection of plant resources

8. The relations in the field of collection of plant resources in RA are regulated by RA Constitution², Forest Code of RA³, Tax Code of RA⁴, RA Civil Code⁵, RA Code of Administrative Offences⁶, RA Law on Flora⁷, RA Law on Specially Protected Nature Areas⁸, RA Law on Environmental Control⁹, RA Law on Compensation Tariffs for the Damage Caused to Flora and Fauna¹⁰, RA Law on Drugs¹¹ as well as by a number of decisions made by RA Government and other normative legal acts.
9. The scope of legal relations regulated by the main legal acts in the context of the collection of plant resources is presented below.

RA Constitution

10. According to Article 12 of RA Constitution, “The State fosters the protection, improvement, and restoration of the environment, the rational use of natural resources guided by the principle of sustainable development and taking into account the accountability to the future generation. Each and every person has the responsibility to take care of the environment.” This constitutional norm does not directly refer to the collection of plant resources. Nonetheless, its comprehensive formulation also includes this manner of nature utilization.

Forest Code of RA

11. Forest Code of RA regulates the relations connected with the management of RA forests and forest lands: conservation, protection, restoration, afforestation, and effective use of forest lands as well as with forest inventory, monitoring, control.
12. According to the third article of Forest Code, the harvesting and removal of **fruits, berries, nuts, mushrooms, plants and herbs, technical raw material from forests is considered non-wood forest products**. The harvesting of non-wood forest products in forests is regulated by **indirect rules of forest use** (Article 38).

Tax Code of RA

13. RA Tax Code regulates the relations related to the taxes and fees, prescribes the principles of the tax system, the concepts and types of taxes and **fees, taxpayers**, tax rates, the procedure and terms of tax calculation, payment, and, in cases prescribed by the Code, levying tax liabilities, as well as tax privileges.
14. According to the seventh Article of Tax Code, one of the mandatory payments is the **payment for the utilization of nature**, which is the payment made to the State Budget of RA for the efficient and integrated use of state-owned natural resources as well as for the purpose of compensating for the utilization of natural resources (Article 197, part 1). According to the 6th point of the 1st part of Article 200, bio-resources are considered to be **objects of nature utilization payment**.

² Passed on 06.12.2015, enforced on 22.12.2015, 2015.12.21/Special Edition Article1118:

³ Passed on 24.10.2005., enforced on 17.12.2005, 2005.12.07/75(447) Article1432:

⁴ Passed on 04.10.2016, enforced on 01.01.2018, 2016.11.04/79(1259) Article1038:

⁵ Passed on 05.05.1998, enforced on 01.01.1999, 1998.08.10/17(50):

⁶ Passed on 06.12.1985, enforced on 01.06.1986, 1985/23:

⁷ Passed on 23.11.1999, enforced on 27.12.1999, 1999.12.27/31(97) :

⁸ Passed on 27.11.2006, enforced on 04.01.2007, 2006.12.25/66(521) Article1363:

⁹ Passed on 11.04.2005, enforced on 28.05.2005, 2005.05.18/28(400) Article548:

¹⁰ Passed on 03.05.2005, enforced on 18.06.2005, 2005.06.08/35(407) Article625:

¹¹ Passed on 17.05.2016, enforced on 15.12.2016, 2016.06.15/47(1227) Article549:

15. According to the 6th point of the 1st part of Article 198, **payers of nature utilization payment for the utilization of biological resources shall be those using biological resources constituting objects of flora and fauna.**
16. According to the 6th point of the 1st part of Article 201 of RA Tax Code, the base of nature utilization payment for the utilization of bio-resources shall be the amount, weight or the unit (quantity) or any other physical characteristic of measurement constituting an object of flora and fauna.

Civil Code of RA

17. Civil Code of RA, among other legal relations, regulates the commercial relations between legal and natural persons, including relations for the collection of plant resources. The Code defines the trade and lease (lease of some forest lands) relations and is also applicable for the collection of plant resources and their sales.

RA Code of Administrative Offences

18. According to RA Code of Administrative Offences, people carrying out **unauthorized collection of wild berries, nuts, mushrooms, and berries** must be held liable. In particular, according to Article 72 of RA Code of Administrative Offences:

“Unauthorized collection of wild berries, nuts, mushrooms, berries and etc. in those forests, where it is banned or is allowed only to people with forest permits, leads to imposition of a fine on citizens at the amount of twenty times of the minimum wage.

Collecting wild berries, nuts, berries, and etc. in violation of the deadlines and the manner set for collecting them issues a warning or a fine to citizens at the amount of five times of their minimum wage¹² and to the officials at the amount of twenty-five times of the minimum wage.”

19. Article 93 of RA Code of Administrative Offences imposes responsibility for the collection of plants included in Red book, in particular:

“Unauthorized collection of plants or their roots, flowers, fruits registered in Red book will lead to imposition of fines on citizens at the set amount of 80 times of the minimum wage and on officials at the amount of 150 times of the minimum wage.”

RA Law on Flora

20. RA Law on Flora regulates the social relations in the field of conservation, protection, use, and reproduction of flora. The law also defines certain important concepts. The most important thereof in this context are the following:

Endangered plant – a rare species of plant, the specimen of which continuously decreases with time.

Red book of plants - a comprehensive document meeting the international requirements which contains information on rare, endangered plants and on their coexistence conditions, geographical distribution, ecological conditions, on the current condition of biological characteristics, and on preservation measures.

Flora - the integrity of trees, bushes, herbs (including mosses, selagos, equisetum, and pterophyte) as well as the integrity of types of algae, fungi, and lichen and their coexistence under natural conditions.

¹² According to the RA Law on Minimum Salary, 1000 AMD is considered as a basis for fine calculations.

Flora resources - the amount of existing types of plants subject to utilization and their coexistence in a certain geographical area.

RA Law on Specially Protected Nature Areas

21. RA Law on Specially Protected Nature Areas regulates the legal relations in the field of the natural development, restoration, preservation, reproduction, and use of individual objects and RA specially protected areas as ecosystems having environmental, economic, social, scientific, educational, historical-cultural, aesthetic, medical, and recreational values.
22. According to the 6th point of Article 16, the collection of plants, flowers, fruits and seeds in state reserves and in reserve zones of national parks is prohibited except collecting the ones intended for scientific research.

RA Law on Environmental Control

23. The law regulates the issues related to the organization and implication of control over the implementation of RA environmental legislation and defines the legal and economic grounds of environmental control and the peculiarities, order, conditions of the implementation of control of environmental legislation norms.
24. The 5th point of Article 5 of the law defines the directions of control on the utilization and preservagtion of flora, *in particular the fulfillment of the requirements of conservation, protection, utilization, and reproduction of plant resources, compliance with the requirement of preservation of plants in Red book and of plant communities, compliance with the requirements of preservation of habitats of plant resources, compliance with the requirements of the use of plant resources for agricultural, industrial and social purposes.*
25. The control in the above-mentioned directions is carried out by Environmental Protection and Mining Inspection Body of RA.

RA Law on Compensation Tariffs for the Damage Caused to Flora and Fauna due to Environmental Offences

26. The law defines the compensation tariffs for the damage caused to flora and fauna due to environmental offences and its calculation and collection procedures. In case of unauthorized collection of fruits, berries, mushrooms, seeds, herbs, and other useful plants, the damage compensation tariffs are set for each kilogram or other physical units. The highest tariffs are set for the destruction or unauthorized collection of plants registered in RA Red book.

RA Law on Drugs

27. The Law regulates the relations of the circulation of medicines, substances, herbal substances and preparations, and investigational medicinal products with the aim of securing a safe, effective, quality, and affordable medicinal product and reliable information thereon to the population. This Law also defines the powers of the competent state authorities of the Republic of Armenia and the powers of entities involved in the circulation of medicinal products in this sphere.
28. In the frames of the given analysis the following terms defined by law are of utter importance:

Medicinal product: any substance of human and/or animal and/or vegetable (micro-organisms, plants, parts of plants, plant extraction, other plant substances) and/or chemical and/or biotechnological origin in an appropriate dosage and dosage form, and the requisite packaging and labeling, which presented as having properties for treating or preventing disease in human beings or animals.

Herbal substances: whole, fragmented or cut plants, plant parts, algae, fungi, lichen in an unprocessed, usually dried, form, but sometimes fresh used for the purpose of preparing or manufacturing of medicinal products;

The proper cultivation and collection of medicinal herbs: a component of quality assurance which guarantees the quality of medicinal herb raw material for the invariable production.

29. The procedure of proper cultivation and collection of medicinal herbs is defined by the RA Government decree on “Approving the rules of proper production of drugs”¹³.

Permit on the collection of plant resources (indirect use of forest)

30. **Currently, the collection of plant resources in forests and in specially protected nature areas is, in fact, carried out by the people living in the nearby areas of forests, mostly without a relevant permit (contract of indirect use of forest and forest ticket/permit).¹⁴ The goods collected without a relevant permit, not only serve the individual needs but also to make profit. The goods are sold along the streets, are delivered to storing and processing companies as well as to retail chains and shops. The collection without permission and without proper control poses a threat in terms of preservation of forest inventory and in terms of ensuring its reproduction, as a result thereof the ecosystem can be disturbed and certain species can be eliminated.**
31. It is obvious, that the traditional occupation of the people living near forests is linked to forests and the usage of its goods which help to solve vital social issues. Especially, that there is a serious employment problem in those areas and the opportunities to earn money is very limited. **Thus, the regulations of the field of plant resources collection should be based on such solutions which will not generate additional social and administrative burden for inhabitants.**
32. Considering the peculiarities of entities involved in the supply chain (processing companies, retail chains, retail outlets), **a unified simple approach is required which will be acceptable and applicable for all the entities.**
33. According to RA Forest Code, the use of state-owned bio-resources is paid and can be done only if there is a relevant permission. According to the first point of the Article 22 of Law on Flora, the use of state-owned plant resources for industrial purposes is paid and is considered to be a licensed activity. The only exception is defined according in the first point of Article 44 of Forest Code of RA, according to which citizens have the right to be in state-owned or community-owned forests **without any permission** to have a rest, to **collect wild berries, berries, nuts, mushrooms and plants** for personal use with the exception of certain cases stipulated by law or other legal acts. It is worth mentioning, there is no legal act defining the exact volume of collected goods to be considered for personal use.
34. In addition to the above, in the state-owned and community-owned forests¹⁵ as well as in forests included in specially protected natural areas (reserves managed by “Hayantar” SNCO), the collection of plant resources is carried out in compliance with the rules of indirect use of forests.
35. According to the first part of Article 38 of RA Forest Code, the collection of **non-wood forest products, that is of fruits, berries, nuts, mushrooms, edible herbs, and medicinal herbs, technical raw materials** is permitted without damaging the forest as well as it is permitted to install beehives, hives, to hay harvest and to graze animals according to the **contract on forest use and**

¹³ Passed on 25.11.2010, was enforced on 01.01.2011, ՀՀ ՊՏ 2010.12.22/64(798) Article.1493.

¹⁴ An Assessment of Wildlife Trade in Armenia with Recommendations for Interventions: Final report: September 2015 – February 2016. FPWC and Fauna&Flora International, pp. 2, 7, 11, 40-42:

¹⁵ In RA there are no community-owned forests yet.

- forest ticket/permit.** By the order N159 given by the Minister of Agriculture on September 18th, 2012 on approving the procedure of indirect forest use in state-owned and community-owned forest areas, the implementation procedure of indirect forest use and the procedure of obtaining permits were approved. The aforementioned procedure is applicable also to the areas included in specially protected nature areas.
36. According to the order N159 of RA Minister of Agriculture, the indirect forest use can be carried out in two ways: 1. Without obtaining the right to use the forest lands, 2. By lease of forest lands. In either case, the indirect forest use for industrial purposes should be carried out in compliance with the forest management plans.
 37. According to the 10th point of the order N159 given by RA Minister of Agriculture, the registration of indirect forest use is to be carried out by inputting the necessary data in the registration book. *The permissible volume for collection, the permissible square, areas and the surface, the number of forest tickets/permits, and the deadline for forest use* are to be registered.
 38. There are contradictory regulations on indirect uses of forests between Article 38 of RA Forest Code and Article 22 of RA Law on Flora. In particular, according to Article 38 of RA Forest Code, the indirect use of forest, including the collection of wild plants, fruits, and berries, is carried out in compliance with the contract on forest permit/ticket and the forest use. Whereas Article 22 of RA Law on Flora stipulates that in the Republic of Armenia the use of state-owned objects for industrial purposes (not household purposes) is paid and is considered to be a licensed activity. The existence of such a provision in RA Law on Flora presupposes the relevant regulations in RA Law on Licensed activity¹⁶, where there is no regulation. It is noteworthy, that RA Law on Flora is not only applied to forests but also to wild species growing out of forest areas, nonetheless, due to imperfect legal regulations, a license is not issued for the collection of those wild species and there is no payment made for the use of nature. It is necessary to repeal the controversial and imperfect regulation of the licensing requirement, as it is unnecessary to burden the citizens by making them go through the licensing process and this will definitely lead to multiple violations of the established requirement. Consequently, such an approach to legal regulation is not grounded.
 39. Currently, the Law on Flora is in the amendment phase. Extensive amendments are envisaged in the current Law on Flora, which is stipulated by the bill¹⁷ of RA law on Making Amendments and Addenda to the RA law. In particular, the license requirement is envisaged to be replaced by the requirement of obtaining permits, due to which the above-mentioned legal inconsistencies will be eliminated. Nonetheless, it should be noted, that the regulation of the use of plant resources in community-owned areas is left out from the scope of the project. Though the 8th Article of RA Law on Flora refers to the RA Law on local self-government bodies, here too, the use of plant resources in community-owned areas is not regulated.
 40. It is noteworthy there is no approved management plan for forestry. The development of management plans is underway and it is implemented through the means of UNDP and RA state budget. The development of all RA forestry management plans is foreseen to be completed by 2021. What refers to SPNAs, only the management plan¹⁸ of “Dilijan” National Park has been adopted, the others are expected to be adopted in 2021-2022.
 41. Apart from the approval of the management plans of forests and SPNAs, it is of utmost importance to specify the boundaries of those areas. It is important for defining the legal boundaries of managing and regulating entities. Currently, there are quite serious inaccuracies between cadastral and forestry maps. There has been no state inventory of forests since the independence. Because of the illegal alienation of forest lands during those three decades, the forest inventory lands have been

¹⁶ Passed on 30.05.2001, enforced on 08.08.2001, ՀՀԴՏ 2001.08.08/26(158) Article 581.

¹⁷ <https://www.e-draft.am/projects/598/about>

¹⁸ Passed on 23.02.2017 enforced on 19.03.2017, ՀՀԴՏ 2017.03.09/15(1290) Article 226.

reduced, in some areas illegal construction has been carried out. Due to the decrease in livestock, in some parts, the forest 'occupied' the lands of communities as a result of natural regeneration. The volume of such inaccuracies is about 30.000 hectares.

42. In practice, the permit for indirect use of forest is aimed at solving the following problems: a. *to ensure the collection of nature utilization payment for the collection of state-owned resources.* b. *to ensure the preservation of ecosystems and the sustainable use of resources.* Nonetheless, the analysis of practice shows that the fulfillment of the above-mentioned tasks is impossible under the current legal and regulatory conditions. It is conditioned by *the consideration of not complicating the social situation of the population. Secondly, it is due to the lack of necessary resources¹⁹ to exercise proper control and supervision.*
43. In addition to the above, it is worth noting that currently there are no exact estimations of the volume of resources in question. This would give the opportunity to form an idea about the economic value of these resources. The newly developed forest management plans are envisaged to include activities for the assessment of forest ecosystem services, which will help to form a clear image of the economic value of resources and of the possibility of their effective use.
44. Taking into account the fact that the people living in communities near forests have limited opportunities of earning income and given the fact that to exercise proper control and supervision of indirect forest use in forests can require incomparably greater resources than the payment for the forest use, **we find it expedient to consider the opportunity of eliminating the requirement of obtaining a permit irrespective of resource volume, in case plant resources collection is carried out without obtaining a permit for it.** This approach can be an incentive for eliminating the illegal logging.
45. At the same time, taking into account the necessity of preservation of rare species and the sustainable use of bio-resources, **we propose to develop and implement awareness-raising activities for people engaged in indirect forest use. With the help of these activities, the population will obtain necessary knowledge and skills.** Simultaneously, it will be necessary to improve the capacity of the institution responsible for the violations of established rules.
46. It is worth noting that in case the requirement for indirect forest use is eliminated, "Hayantar" SNCO will be more interested in collecting and selling or cultivating the collected products. Though currently such provision is legally prescribed to "Hayantar" SNCO, it is not being implemented.
47. In separate cases, citizens grow fruits, berries, and plants in industrial amounts on their lands, thus, in such cases, they freely, without any permission, own the crop. Nonetheless, in cases when citizens grow rare plants or species registered in the Red book on their lands, **it will be necessary to confirm this fact by a relevant certificate issued by a local self-government body, the copy (scan) of which should also be available to the seller/retailer.** The need for such regulation is due to the consideration of excluding and regulating the collection of forbidden species or the ones the collection of which is limited in forest and specially protected nature areas.
48. The issuance of the aforementioned certificate will not impose additional complications, as the community head is obliged to carry out an annual land calculation to compile the land balance, thus local self-government body has systematic information on all the lands, their surface, their targeted and functional significance as well as on the species being cultivated.

¹⁹ For more details, refer to the chapter "Control and liability."

Issues and peculiarities of the application of nature utilization payments for collectors, processors and retailers

49. According to the 6th point of the first part of Article 198 of RA Tax Code, the users of plant resources and fauna objects of the Republic of Armenia are considered to be the payers of nature utilization payments, that is to say, the immediate processors are the payers.
50. As it has already been noted, it is not expedient to charge the residents of communities near forest areas for forest use. What refers to processing companies, retail chains, and retail shops, to determine the need for charging nature utilization fees for the goods purchased from them, it is necessary to get the answers to the following questions:
- 1) What volume of bio-resources do the processing companies and retail chains acquire?
 - 2) Which percentage of the bio-resources acquired by the above-mentioned companies is collected from forests and which percentage is from specially protected nature areas and which percentage from their own lands.
 - 3) Does the sum of nature utilization payments for the bio-resources acquired by processing companies and retail chains justify the additional expenditure and administration which will be created for businesses, and those resources needed for the competent state bodies to exercise control over the nature utilization fee calculation and payment for processing of bio-resources.
 - 4) What impact will have the burdening of businesses with a new type of mandatory payments on the development of businesses, in particular on small and medium enterprises.
51. The answers to the above-mentioned questions can be key determinants to justify or to refute the need to charge the processing companies and retail chains for the use of bio-resources. Consequently, we consider it necessary to carry out relevant economic analysis, including the analysis of market structure, the results thereof will predetermine the need for amendments to RA Tax Code on charging nature utilization payments.

Other economic tools

52. The charging of nature utilization payments in the field of processing of bio-resources is the only economic tool enshrined in RA legislation. In this regard, it should be noted that the opportunities for the use of economic tools, which are related to the provision of ecosystem services, are rather wide. It should be added that these opportunities are somewhat underestimated in Armenia.
53. Nonetheless, in cooperation with the Ministry of Environment of the Republic of Armenia and international partners, a number of studies have been carried out on the implementation of voluntary payment for ecosystem services in Armenia. Moreover, a pilot program has been implemented to study the feasibility of introducing the payment for ecosystem services in a specific community. The activities are continuous.
54. The collection of plant resources in forests and specially protected nature areas is a type of ecosystem services (from the provided service group), consequently, this service has certain economic value. Thus, to convert the economic value of the aforementioned resources into income, it is necessary for the governing institutions of those areas (“Hayantar” SNCO and SNCOs of SPNA) to have their investment in making those services of better quality and more affordable for the users (for instance, implementing pest control and taking other necessary measures, making the necessary information available, indicating the routes, following certain safety rules, providing information on the collection of species which are prohibited or have seasonal restriction and etc.). In other words, the governing

institutions should have the necessary capacities to provide additional services. Moreover, the idea of product branding can be considered as one of the additional services²⁰.

55. To develop and to put those models into practice **it is necessary to develop a clear strategy with the appropriate action plan which will include the necessary capacity building activities for implementing the necessary assessments, developing the infrastructures as well as for informing the residents and the governing bodies of forest areas.**
56. In case the above-mentioned model is implemented, we believe the obligation for paying for those services should not be directly put on the residents of communities near forest areas. Instead, it is necessary to consider the creation of relevant legal field between local self-government bodies²¹ of communities near forests or processing companies and retail chains and “Hayantar” SNCO, in the frames of which the inhabitants will carry out collection in compliance with the established rules and in permissible volumes, afterward they will deliver the goods to those organizations.
57. Conceptual documents on the development of ecosystem services have been adopted in RA (RA Government protocols “On the approving the concept of creating innovative and economic mechanisms in the field of nature protection”²² and “On approving the program of measures for the implementation of tasks arising from the concept of creating innovative financial and economic mechanisms in the field of nature protection”²³). Nonetheless, no practical measures have been taken in terms of the aforementioned problem during the period of the action plan (2015-2018). The concept of implementing the institute of ecosystem services is also introduced in RA bill²⁴ on “Environmental policy,” the amended version of which has not been practiced/enforced yet.
58. According to RA law on “Specially protected nature areas,” the collection of plant resources is prohibited in state reserve areas as well as in reserve areas of national parks. Despite of the legal ban, the collection of plant resources is still being carried out in the aforementioned areas. The main reason for this situation is the lack or limited alternative sources of income, **thus, apart from holding inhabitants responsible for illegal collection of plant resources it is necessary to take the required measures to meet their essential needs as well as to develop the small and medium-sized enterprises.**
59. To that end, **first of all**, it is necessary to identify the communities which are located in the vicinity of state reserves or reserve zones of national parks, and the population thereof is mainly engaged in collection of plant resources. **Secondly**, it is necessary to select the best option of investment programs in the respective communities and **thirdly**, together with banks and credit companies to develop subsidized, privileged loan programs. Moreover, **it is important for the privileged loanee not to violate the rules of forest use, otherwise, those privileged loan terms will be ceased.**
60. The implementation of this offer can commence with the help of relevant pilot grants. Such experience was practiced in Haghartsin and Teghut communities and the grants were aimed at the prevention of illegal logging. Together with the WWF office in Armenia, 52 grant projects with a total of 150.000.000 AMD budget have been implemented as a result of which rather successful businesses have been created and the illegal logging has been significantly reduced.

²⁰ Fruits, berries, herbs, and other crops have a clear competitive advantage, consequently, they can be labeled with the appropriate forestry mark, which will make the product recognizable and will add value.

²¹ At first glance it may seem unreasonable for the local self-government bodies to pay for the ecosystem services provided to the residents, but in case of sustainable collection and provision of quality services, especially to people living in near forest areas, the use of this scheme can be a significant social contribution. Moreover, it will prevent people from leaving those settlements.

²² Passed on 25.04.2013, enforced on 30.04.2013, not published yet.

²³ Passed on 14.11.2013, enforced on 14.11.2013, not published yet.

²⁴ http://www.parliament.am/news.php?do=view&cat_id=2&day=03&month=09&year=2019&NewsID=11954&lang=arm

Control and responsibility

61. As it has already been noted, RA Nature protection and Inspectorate for Nature Protection and Mineral Resources exercise control over the observance of plant resources collection rules. The aforementioned body is authorized to record violations in case they are detected and to apply administrative sanctions to the offender.
62. Moreover, the control is exercised in forests and SPNAs by relevant SNCO bodies, i.e., foresters. The latter is not authorized to take punitive measures in case violations are detected. In those cases, they are entitled to inform RA police or the inspectors of the relevant territorial department of Inspectorate for Nature Protection and Mineral Resources.
63. The 2019 annual report²⁵ of RA Inspectorate for Nature Protection and Mineral Resources is not detailed enough to form an image of the results of the control over the observance of the rules of plant resources collection. The data presented under the title “The use and protection of nature” in the report is very generalized. It mostly refers to illegal logging, consequently, the mentioned fines are also for those legal violations.
64. It should be noted that the control over the collection of plant resources is rather complicated in a sense that if the violation is not recorded at that moment, very often it is impossible to fix how many plant resources have been collected as opposed to illegal logging, when there are stumps, saw trails, car tires tracks and other signs of logging.
65. **In order to increase the effectiveness of control over the collection of species which are banned or have seasonal restrictions as well as the collection in banned areas, it is necessary to make the appropriate amendments to Article 72 “Unauthorized collection of fruits, nuts, mushrooms and berries” of RA Code of Administrative Offences.** In particular, we propose to remove the word “unauthorized” from the title and the text of the article as the elimination of the requirement to obtain a permit implies that everyone has the opportunity to carry out such activities in compliance with the established rules.
66. The issue of taking punitive measures for **the collection of plants which are included in the Red book or for their sales** is not settled either in RA Code of Administrative Offences. Such an approach creates a vicious circle and the sellers (who can also be the ones who have collected) cannot be subject to punishment (for instance the sales of snowdrops (included in Red book) in the center of Yerevan in spring).
67. To fill in the above-mentioned gap, **we consider it necessary to make the relevant additions in Article 93 of RA Code of Administrative Offences which will stipulate responsibility for the sales of species included in Red book.** Moreover, there should be some reservations for the cases when the plant was grown on personal property areas or on the land which is used on other grounds and when there is a reference letter on this from the head of the community.

The system of competent bodies and their power/commission

68. The table below maps the powers of state bodies in the field of conservation and protection of flora, their inventory, cadaster management, use and control.

²⁵ https://www.ecoinspect.am/wp-content/uploads/2020/06/hashvetvutyun_2019.pdf

	RA Government	RA Environmental Protection and Mining Inspection Body	RA Ministry of Environment	Department of SPNAs and Biodiversity	Department of licensing, permits and agreements	RA Forest Committee Ministry of Environment	“Hayantar” SNCO (governed by the Forest Committee)	Territorial Administration Bodies	Local Self-Government Bodies
Policy development	<p>- ensuring the implementation of state policy</p> <p>- implementation of state policy of conservation, protection and reproduction of flora</p>		<p>-</p> <p>The development of policy programs and strategies in the field of sustainable management, conservation, protection of flora, as well as SPNAs, in the field of rational use and reproduction of flora resources, the provision and analysis of their implementation process.</p> <p>-</p> <p>The development of economic mechanisms and toolkit for environmental protection and rational use and reproduction of flora resources.</p>	<p>-</p> <p>Ensures the development and implementation of strategies, programs and policy on sustainable management of biodiversity.</p>					
Program development	<p>- Approval of state programs in forest sector</p>			<p>-</p> <p>Presents proposals for the protection, development,</p>		<p>-</p> <p>In cooperation with relevant international organizations,</p>		<p>-</p> <p>Participation in the development of state programs and in their</p>	

	RA Government	RA Environmental Protection and Mining Inspection Body	RA Ministry of Environment	Department of SPNAs and Biodiversity	Department of licensing, permits and agreements	RA Forest Committee Ministry of Environment	“Hayantar” SNCO (governed by the Forest Committee)	Territorial Administration Bodies	Local Self-Government Bodies
	- Approval of state programs in the field of conservation, protection, use and reproduction of plant resources (hereinafter referred to as state programs).			balancing of ecological, social, economic potential of biodiversity, specially protected areas, and monitors the measures taken for their implementation.		develops programs for efficient use of forest resources. - Develops and organizes fire safety programs in forest lands, as well as programs for pest and disease control measures. - Develops and implements investment programs within the framework of public-private partnership.		implementation within the scope of its competence.	
Conservation and Protection	- Defining the order of plant resources protection and use. - Approval of Red book of plants and the list of plants included in it.		- Managing the Red books of RA plants and animals.	- Runs the Red book of plants of the Republic of Armenia.				- Support for conservation of specially protected nature areas (state reserves, national parks, state sanctuaries, natural monuments), botanical gardens and arboretums.	- Carries out control over the implementation of environmental measures in community-owned lands in the manner prescribed by law.

	RA Government	RA Environmental Protection and Mining Inspection Body	RA Ministry of Environment	Department of SPNAs and Biodiversity	Department of licensing, permits and agreements	RA Forest Committee Ministry of Environment	“Hayantar” SNCO (governed by the Forest Committee)	Territorial Administration Bodies	Local Self-Government Bodies
								- Implementation of measures for the protection of flora in coordination with the authorized body in that field.	
Use and permissions	- Approval of the list of objects subject to use of plant resources, approval of the amount of payment and its charging procedure		- Issuance of permits, contracts for the protection of the environment and the use of natural resources through a unified system.	- Participates in the development of activities of economic mechanisms for biodiversity conservation, rational use and reproduction of bioresource management.	- Signing of contracts and issuance of permits for the use of plant resources.	- Organizes the management of state forestries. - Carries out the management and the use of state forests. - Accepts applications for lease or gratuitous use of forests or forest lands in the manner prescribed by law, organizes tenders, provides, consent.	- Taking measures for the effective use of forest resources. - Construction of production and supporting facilities related to management of forests.		
Cadaster, monitoring, inventory	- Defining the order of organizing and		- Management, registration, and monitoring of flora, including		- Inventory and monitoring of wild plant resources, ensuring information bank	- Organizes the state registration of forests, forest lands and			- Carries out current inventory of lands located

	RA Government	RA Environmental Protection and Mining Inspection Body	RA Ministry of Environment	Department of SPNAs and Biodiversity	Department of licensing, permits and agreements	RA Forest Committee Ministry of Environment	“Hayantar” SNCO (governed by the Forest Committee)	Territorial Administration Bodies	Local Self-Government Bodies
	<p>monitoring of flora</p> <ul style="list-style-type: none"> - The approval of cadaster operation procedure of flora. 		<p>pecially protected nature areas, forests arboretums, and hunting farms.</p> <ul style="list-style-type: none"> - Creation of nature resource cadaster and its maintenance. 		<p>and cadaster management process.</p>	<p>maintenance of forest cadaster.</p>			<p>within administrative boundaries of the community, the current classification of land area coverages and compiles the land balance of the community.</p>
Control		<ul style="list-style-type: none"> - Implement requirements set for the conservation, protection, use and reproduction of plant resources. - Ensure that the established rules for the export of plant resources from the Republic of Armenia and their import to the Republic of Armenia are maintained. - Ensure that requirements set 							

	RA Government	RA Environmental Protection and Mining Inspection Body	RA Ministry of Environment	Department of SPNAs and Biodiversity	Department of licensing, permits and agreements	RA Forest Committee Ministry of Environment	“Hayantar” SNCO (governed by the Forest Committee)	Territorial Administration Bodies	Local Self-Government Bodies
		<p>for the protection of plants registered in the Red Book, as well as plant communities are met.</p> <p>-</p> <p>Ensure that requirements for the protection of habitats of plant resources are met.</p> <p>-</p> <p>Ensure that requirements for the use of plant resources for agricultural, industrial and social purposes are met.</p>							

The role of local self-government bodies

69. Article 8 of RA Law on flora prescribes the definition of the competences of local self-government bodies in the field of flora conservation, protection, use and reproduction to the RA Law on Local self-government bodies²⁶, nonetheless, the latter does not define any competence of local self-government bodies.
70. It should be noted, that currently, the capacities and resources of local self-government bodies practically are not sufficient to carry out any work in the field of flora conservation, protection, use, and reproduction.
71. However, local self-government bodies can play a key role in organizing the collection of flora in compliance with the established requirements for communities near forest. In this regard, **local self-government bodies, as institutions that daily keep in contact with the population, can efficiently raise the population's awareness on collection rules, on the species that are subject to collection as well as on the restrictions and prohibitions also on the liability in case of violation of the established rules.**
72. The websites and social network sites of local self-government bodies can widely be used to raise awareness. Their accessibility is constantly increasing and though unofficial, they become operative and efficient sources of information dissemination.
73. So far, “Hayantar” SNCO and local Self-government bodies have not cooperated in this context. Likewise, there has been no such attempt to fight against the illegal logging, whereas the use of these opportunities of raising awareness is feasible and efficient, and its implementation does not require resources. In this sense, **we consider it necessary to reach agreements between the appropriate branches of “Hayantar” SNCO and Local self-government bodies of communities near forest areas.**
74. In addition to awareness-raising activities, local self-government bodies, in cooperation with RA Ministry of Environment or “Hayantar” SNCO, **can organize practical trainings for the population on the rules of sustainable collection of plant resources.**
75. Taking into account the volume of collected plant resources and their sales opportunities, Local self-government bodies **can include the creation of community infrastructures necessary for market development and the involvement of investors in the community development plan, namely the production of dried fruits, alcoholic beverages and canned food, the creation of a logistic network and the creation of other economic capacities in the community.**

²⁶ Passed on 07.05.2002թ., enforced on 21.06.2002թ., ՀՀ ՊՏ 2002.06.21/21(196) Article 473:

Appendix 1. The list of legal acts

1. RA Forest Code
2. RA Law on Flora
3. RA Tax Code
4. RA Civil Code
5. RA Land Code
6. RA Law on Specially Protected Nature Areas
7. RA Code of Administrative Offences
8. RA Law on Environmental Control
9. RA Law on Compensation Tariffs for the damage to Fauna and Flora Due to Environmental Offences
10. RA Law on Standardization «
11. RA Law on Legal Acts
12. RA Law on Drugs
13. RA Government Decree on Approval the Procedure for State Flora Cadaster Maintenance
14. RA Government Decree on Approval of the Procedure of Providing Data on State Cadaster of Flora
15. RA Government Decree on Approving the Procedure for Organizing Flora Monitoring
16. RA Government Decree on Approving the Flora State Registration Program
17. RA Government Decree on Procedure for Provision of State Forests and Forest Lands Use
18. RA Government Decree on Procedure for the Provision of Use of the State Border Forests and Forestlands of Military Significance
19. RA Government Decree on Establishing the Procedure for Forest Use and Conservation in the Protection Forests
20. RA Government Decree on Recognizing the RA Government Decree N49 of 2001, January 23 on defining the procedure of forest use invalid and making some amendments in the decision N 142 of September 7.
21. The Decision of RA Minister of Agriculture on Defining the Procedures for the State Forest Use: Approval of Logging, Forms and Invoicing the Tickets (Permits).
22. The Order of the Minister of Agriculture of RA on Approving the Procedure of Indirect Use of State Forest and Community Forestland Use.
23. The Order of the Minister of Agriculture of RA on Approving the List and the Quantity of Agricultural, Forest and Ornamental Plants, Flora products.