

**“ROLE OF PUBLIC IN PROTECTION AND USE OF WILDLIFE:  
PROBLEMS AND SOLUTIONS. RUSSIAN FEDERATION,  
TRANS-BAIKAL TERRITORY, REPUBLIC OF ARMENIA,  
GEORGIA, KAZAKHSTAN”**

“PAPEL DEL PÚBLICO EN LA PROTECCIÓN Y EL USO DE LA  
VIDA SILVESTRE: PROBLEMAS Y SOLUCIONES. FEDERACIÓN DE  
RUSIA, TERRITORIO TRANS-BAIKAL, REPÚBLICA DE ARMENIA,  
GEORGIA, KAZAJSTÁN”

**Author:** Svetlana Ivanova, Associate professor of Land Law and Labor Law Department, Orenburg State Agrarian University (Russian Federation), PhD in Law. E-mail: [svetlana.ivanova.osau@gmail.ru](mailto:svetlana.ivanova.osau@gmail.ru)

**Autora:** Svetlana Ivanova, Profesora asociada del Departamento de Derecho de la Tierra y Derecho Laboral, Universidad Agraria del Estado de Orenburg (Federación de Rusia), Doctora en Derecho. Correo electrónico: [svetlana.ivanova.osau@gmail.ru](mailto:svetlana.ivanova.osau@gmail.ru)

**Abstract:**

This article examines the principles and criteria of public participation in solving issues in the field of protection and use of wildlife. Interaction between the authorities and the public should be built on a fair, effective and informative basis. The author states that public participation in general can be regarded as providing people with an opportunity to influence the results of the plans and work processes that constitute the activities of government bodies.

Based on the analysis of certain provisions of the legislation on the animal world and law enforcement practice, the author comes to the conclusion that the legal framework for the citizens participation in the management of the protection and sustainable use of wildlife in Russia is quite extensive. However, the subsequent provisions of the law did not reflect the specific forms and mechanisms of such participation. The rules for public participation and access to information in the field of wildlife management remain unsatisfactory, since these problems are simply addressed in a limited number of cases. The relevant rules are developed in excessively general terms and without detailed procedures that must be followed to ensure their full implementation. The author suggests specific problem-solving options to draw the public attention to the management issues in the protection and use of wildlife.

## **Resumen:**

Este artículo examina los principios y criterios de la participación pública en la solución de problemas en el campo de la protección y el uso de la vida silvestre. La interacción entre las autoridades y el público debe basarse en una base justa, eficaz e informativa. El autor afirma que puede considerarse que la participación pública en general brinda a las personas la oportunidad de influir en los resultados de los planes y procesos de trabajo que constituyen las actividades de los órganos gubernamentales.

Sobre la base del análisis de ciertas disposiciones de la legislación sobre el mundo animal y la práctica de aplicación de la ley, el autor llega a la conclusión de que el marco legal para la participación de los ciudadanos en la gestión de la protección y el uso sostenible de la vida silvestre en Rusia es bastante extensor. Sin embargo, las disposiciones posteriores de la ley no reflejan las formas y mecanismos específicos de esa participación. Las normas para la participación pública y el acceso a la información en el ámbito de la gestión de la vida silvestre siguen siendo insatisfactorias, ya que estos problemas se abordan simplemente en un número limitado de casos. Las normas pertinentes se desarrollan en términos excesivamente generales y sin procedimientos detallados que deban seguirse para garantizar su plena aplicación. El autor sugiere opciones específicas de resolución de problemas para llamar la atención del público sobre las cuestiones de gestión en la protección y el uso de la vida silvestre.

**Keywords:** Russian Federation. Trans-Baikal territory. Republic of Armenia. Georgia. Kazakhstan. Public. Criteria for public participation. Protection of wildlife. Effectiveness of public participation. Principle of public involvement.

**Palabras clave:** Federación de Rusia. Territorio Trans-Baikal. República de Armenia. Georgia. Kazajstán. Público. Criterios de participación pública. Protección de la vida Silvestre. Efectividad de la participación pública. Principio de participación pública.

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**1. INTRODUCTION**

As a principle of international cooperation in the field of environmental protection, the public participation in the process of solving the most acute ecological problems, is defined in a number of international agreements, among which it's important to mention the Universal Declaration of Human Rights of 1948, the European Convention for the Protection of Human Rights and Fundamental Freedoms of 1950, the Stockholm Declaration of 1972, the Rio Declaration on Environment and Development and others.

However, the category "public" and the principles of its participation in the process of making decisions on the most significant ecological issues is reflected more consistently in the Conventions on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (the Aarhus Convention, Aarhus, June, 25, 1998). "The public" in the Convention is regarded as one or more natural or legal persons, and organizations or groups in accordance with national legislation or practices of their association.

In the most general form, the procedures for public participation in environmental decision-making include: the right of the public concerned to express their comments to the competent authority before making a decision on a particular project; guarantees of timely taking into account the results of consultations when making a decision.

Thus, international and European laws regulate three important aspects of public participation in making environmentally significant decisions: concept (terms); forms and methods of participation; spheres of economic and other activities, where there can be caused damage to the environment and where the opinion of the public concerned is taken into account.<sup>1</sup>

Management of the wildlife depends on the definite elements, such as public support and awareness of protection of wild animals and their habitat. It is necessary that local residents understand and accept the idea and importance of protecting the animal world. Cooperation with the public can help make local residents responsible and collaborate in enforcing wildlife management laws and regulations. Their feedback should also be accepted for the effective functioning of wildlife management. People should understand the concept of natural resources preservation. People, managing the wildlife and other persons in charge should conduct public discussions, shows and conversations, as well as resort to the help of other media, such as newspapers, magazines, radio and television, to familiarize people with the basic concepts of wildlife management. This can prevent people from exploiting natural resources that pose a major threat to wildlife and their habitats.

Public participation in general can be defined as providing people with the opportunities to influence the results of the plans and working processes that constitute the activities of the management bodies. This can be practiced at various stages of the integrated wildlife management, but an environmental understanding of the public remains one of the foundations for the participation. Since public participation is one of the principles of sustainable development, participatory decision-making is seen as a key element of sustainable wildlife management. Public participation can be practiced at various stages of the integrated wildlife management, beginning with the participation in the decision-making process on the actual implementation of measures and ending with participation in environmental monitoring and research. The role of education in public awareness programs is very important. School and university programs should include environmental disciplines based on wildlife conservation. Well-educated and trained specialists competent in the protection and use of wildlife should participate in public training, interact with people and solve their problems to make them more responsible to their duties in the wildlife management.

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<sup>1</sup> ANISIMOV, A.; RYZHENKOV, A. The Issue of the Strengthening Public Role in Making Environmentally Significant Decisions at the International and National Level, with Special Reference to Russian Legislation. *Acta Juridica Hungarica*, vol. 55, n. 1, 2014, pp. 71-86.

## **2. CRITERIA AND PRINCIPLES OF PUBLIC PARTICIPATION IN MANAGEMENT OF THE WILDLIFE**

Public participation in the decision-making process in various fields, and particularly in the field of protection and use of the wildlife, has some advantages. Thus, the main purpose of public participation is, first, to encourage the public to make a meaningful contribution to the decision-making process. Second, effective public participation makes it possible to identify the values of society and to include them in the decisions that ultimately affect them. Thus, in the process of making decisions there provided an opportunity of interaction between the decision-making authorities and the public. This form of interaction may become an early warning system about society's problems, a means of disseminating accurate and timely information, and contribute to sustainable decision-making.

Interaction between the authorities and the public should be built on a fair, effective and informative basis. The joint decision-making process should also be based on the principles of public involvement in decision-making. These principles include the following:

1. The public should have a say in decisions about actions that may affect the protection and use of wild animals.
2. Public participation implies that the proposals made by public representatives will influence the final decision of the authorities.
3. Public participation promotes sustainable decision-making by means of recognizing and communicating the needs and interests of all the participants, including the decision-making bodies.
4. Public participation demands active participation in the process of discussion and decision-making in the field of protection and sustainable use of wildlife.
5. Public participation provides participants with the information necessary for a full and comprehensive study of the issues to be discussed.
6. Public participation ensures that the public learns about how their proposals have influenced decision-making.

It is necessary to be guided by the interests of the people when determining the criteria for the effectiveness of public participation. Public administration is carried out to ensure the sustainable use of wild animals, while maintaining

the ecological balance.<sup>2</sup> Indeed, when planning, it is necessary to ensure a balance of social, environmental and economic interests of citizens, society, and business.

Under the conditions of the sustainable use of the wildlife, population should be provided with economic benefits of the process of using wild animals for a long period of time. The use of wildlife for the satisfaction of social interests is an activity for conservation and reproduction of wild animal objects, which makes it possible to ensure their long-term use for the benefit of the population. In addition, it guarantees the rights and interests of employees of fisheries, hunting, and local communities, and creates incentives for the long-term conservation of wildlife.

G. V. Atamanchuk points out the determining value of the criteria for the overall social effectiveness of public participation in the state management of the animal world, which reveals the results of the system functioning. According to the author, on the basis of social criteria, it is possible to establish the relationship between public administration and society and the readiness of the state to ensure the development and coherence of society.<sup>3</sup> Thus it's very important to provide a balance between public and private interests. In this case, the assessment of the public administration effectiveness is determined by the degree of citizens' activity in the decision-making process, the implementation of actions in the field of conservation and sustainable use of wild animals. As it is noted in legal literature the work of the authorities can be considered really effective, provided that the current issues of protecting the interests of the public in general and of each person in particular are successfully resolved.<sup>4</sup> The need to apply the social criterion is indicated in the Aarhus Convention.<sup>5</sup> In particular, it is determined that the law should ensure that the actions of state authorities are open to the public control. And the task of the executive authorities, in this case, is regarded as an ability to realize the public interest. At the same time, the decisions of the public should be evaluated in accordance with measurable criteria to prevent the abuse of power of public authorities. These criteria include:

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<sup>2</sup> MELNIKOV, V. K.; MELNIKOV, V. V. *Modern problems of the organization of hunting economy of Russia, hunting tourism and the analysis of its legal support in foreign countries and Russia*. Moscow: LLC, Stolichnaya tipografiya, 2008, p. 85

<sup>3</sup> ATAMANCHUK, G. V. *Theory of public administration: A course of lectures*. Moscow: Publishing house OMEGA-L, 2005, p. 481

<sup>4</sup> IGNATOV, V. G.; SULEMOV, V. A.; RADCHENKO, A. I.; et al. *Personnel support of the State Service*. Moscow: Rostov-on-Don, 1994, p. 84.

<sup>5</sup> CONVENTION ON ACCESS TO INFORMATION, PUBLIC PARTICIPATION IN DECISION-MAKING AND ACCESS TO JUSTICE IN ENVIRONMENTAL MATTERS [Aarhus Convention]. Aarhus. June 25, 1998.

Criterion 1. All parties concerned in the issues and outcomes of the process are involved throughout the process. The decision-making process provides a disclosure of the full range of opinions and values held by the public.

Criterion 2. Issues concerning the public and relevant to the decision should be taken into account when making a decision. Public input is used in the development and evaluation of options, and public input has a real impact on decision-making. It is important to ensure that the participation of the concerned parties and the public is organized, as far as possible, on the equal basis with the participation of officials and technical experts.

Criterion 3. The participation process should be based on a common goal, and the nature and scope of the participation task should be clearly defined. This includes ensuring that the process is transparent so that the public can see what is happening and how decisions are being made. The procedural ground rules and the roles of the participants should be clearly defined.

Criterion 4. The public participation process seeks to find and facilitate the involvement of those individuals and groups whose interests are potentially affected in making a decision. This process provides equal and balanced possibilities for the participation of all parties. The participation process is conducted in an independent, unbiased manner.

Criterion 5. The public participation process informs participants about the progress made and informs participants about how their input has influenced the decision.

The establishment of legal criteria for the effectiveness of public participation in addressing issues of the protection and use of wildlife requires further development of legislation on the animal world. In particular, it requires further improvement and practical application of a set of measures to encourage the public to actively participate in the discussion and decision-making on wildlife protection. Also, in order to implement the concept of sustainable use of wildlife, it is necessary to intensify the actions of state bodies and civil society actors on the use of various means of legal education (legal propaganda, legal training) in order to influence the consciousness of individual citizens, society as a whole about the need to preserve all nature and wildlife in particular for present and future generations.

### **3. IMPLEMENTATION OF THE PRINCIPLE OF PUBLIC INVOLVEMENT IN THE PROCESS OF WILDLIFE MANAGEMENT: COMPARATIVE ANALYSIS OF RUSSIAN AND FOREIGN LEGISLATION**

The most important principle of the state faunal management is the principle of active involvement of the public in the management process, in the implementation of ecological tourism, in the fight against poaching. One of the main principles of public administration in the field of protection and rational use of wildlife is the principle of involving citizens and public associations in solving problems in the field of protection, reproduction and sustainable use of wildlife objects. The legal basis for the participation of citizens and public organizations in the management of the animal world is the provisions of the Constitution of the Russian Federation, the federal Law "On Environmental Protection", the federal Law "On the Animal World", "On Hunting " and other regulatory legal acts. According to the Constitution of the Russian Federation, all citizens of the Russian Federation have a right to participate in the management of state affairs both directly and through their representatives; everyone has a right to unite, including a right to form trade unions to protect their interests. The freedom of public associations activity is guaranteed; everyone has a right for a favorable environment, reliable information about its condition and for compensation of damage caused to their health or property by an environmental offense; everyone is obliged to preserve nature and environment, to take care of natural resources.<sup>6</sup> In accordance with the provisions of the federal Law "On Environmental Protection", citizens have a right to send appeals to the state authorities of the Russian Federation, state authorities of the subjects of the Russian Federation, local self-government bodies, other organizations and officials about obtaining timely, complete and reliable information about the state of the environment in their places of residence, measures for its protection. Citizens have a right to apply to the state authorities of the Russian Federation, the state authorities of the subjects of the Russian Federation, local self-government bodies and other organizations with complaints, statements and proposals on issues related to environmental protection, negative impact on the environment, and receive timely and reasonable responses. Besides, citizens can create public associations, foundations and other non-profit organizations that carry out activities in the field of environmental protection. Citizens have a right to take part in meetings, rallies, demonstrations, marches and picketing, collecting signatures for petitions, referendums on environmental protection issues and other actions that do not contradict the legislation of the Russian Federation, as well as put forward proposals for

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<sup>6</sup> CONSTITUTION OF THE RUSSIAN FEDERATION. Adopted by popular vote on December 12, 1993. Rossiyskaya gazeta of December 25, 1993 N 237



conducting public environmental expertise and participate in its conduct in accordance with the established procedure, provide assistance to state authorities of the Russian Federation, state authorities of the subjects of the Russian Federation; to local self-government bodies in solving environmental protection issues, to file claims for compensation for environmental damage, etc.<sup>7</sup>

According to Article 10 of the federal Law "On the Animal World", citizens and legal entities, including public associations and religious organizations, participate in the protection and use of the animal world, the preservation and restoration of its habitat in accordance with the procedure provided for by the legislation of the Russian Federation. In this regard, citizens and legal entities have a right to: receive relevant information from state authorities, unless otherwise established by the legislation of the Russian Federation; conduct public environmental expertise; carry out public environmental control; carry out measures to protect the animal world and its habitat; promote the implementation of relevant state programs. At the same time, state authorities, when exercising their powers in the field of protection and use of wildlife, conservation and restoration of its habitat, are obliged to take into account the proposals and recommendations of citizens and legal entities. It also provides for the participation of international public organizations in the protection and sustainable use of wildlife on the territory of the Russian Federation, which should be regulated by international treaties of the Russian Federation.<sup>8</sup> The provisions of Article 2 of the federal Law "On Fisheries and Conservation of Aquatic Biological Resources"<sup>9</sup> establish the principle of participation of citizens and public associations in resolving issues related to fisheries and conservation of aquatic biological resources. According to this law, citizens of the Russian Federation and public associations have a right to participate in the preparation of decisions, the implementation of which may have an impact on the state of aquatic biological resources, at the same time, state authorities, local governments, economic and other entities are obliged to ensure the possibility of such participation in the manner and in the forms established by law.

Certain constituent entities of the Russian Federation have adopted by-laws and regulations on public participation in the management of natural resources and environmental protection, which mainly detail the status of citizens and their associations as participants in the relevant legal relations and

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<sup>7</sup> ON ANIMAL WORLD. [Law of Georgia of December 26, 1996](#)

<sup>8</sup> ON ANIMAL WORLD. [Federal Law No. 52-FZ of 24.04.1995](#) (as amended on 13.07.2015)

<sup>9</sup> ON FISHERIES AND CONSERVATION OF AQUATIC BIOLOGICAL RESOURCES. Federal Law of December 20, 2004 N 166-FZ / / SZ RF. 2004. N 52 (part I). Article 5270

the procedure for such participation. For example, the decree of the government of the Trans-Baikal Territory of 21.06.2011 No. 211 approved the Regulation on public hunting inspectors of the Trans-Baikal Territory.<sup>10</sup> The regulation defines the status of public hunting inspectors for the protection of objects of the animal world and their habitat on the territory of the region, the order of organization of their activities. According to the specified normative legal act, public hunting inspectors are a voluntary formation of citizens created for the purpose of their assistance in the protection of wildlife objects classified as hunting objects. The activity of public hunting inspectors is based on strict compliance with the law and is carried out on a voluntary and gratuitous basis. When solving the tasks assigned to them, public hunting inspectors interact with the state service for the protection, control and regulation of the use of wildlife objects and their habitat in the Trans-Baikal Territory. They also interact with law enforcement agencies, legal entities, individual entrepreneurs engaged in long-term use of wildlife objects, public associations, and other legal entities and individuals. An active participation of public organizations of fishermen and hunters on the territory of the subjects of the Russian Federation is also important to mention. They are doing a great job to assist the authorized state bodies in implementing measures for the protection and rational use of wildlife, as well as on the issues of educating citizens to treat the objects of wildlife carefully.

Thus, a legal framework has been developed for the participation of citizens in the management of wildlife protection. But at the same time, there are no forms and mechanisms for implementing legal guarantees for the participation of citizens and legal entities in making management decisions. The rules for public participation and access to information in the field of wildlife management are unsatisfactory, since these issues are simply addressed in a limited number of cases. The relevant norms are developed in excessively general terms and without detailed procedures that must be followed to ensure their full implementation.

A similar problem exists in the legislation of a number of foreign countries. The implementation of the Convention on Biological Diversity<sup>11</sup> involves the achievement of three fundamental goals: nature protection, harmonious social and economic development. Consequently, in order to implement the principles of public administration in the field of protection, use and reproduction of wild animals, states should adopt normative legal acts, the content of which is aimed at searching a balance between the interests of

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<sup>10</sup> ON APPROVAL OF THE REGULATIONS ON PUBLIC HUNTING INSPECTORS OF THE TRANS-BAIKAL TERRITORY (WITH AMENDMENTS AND ADDITIONS). Resolution of the Government of the Trans-Baikal Territory of 21.06.2011 No. 211. "Asia-Express". 2011. №26.

<sup>11</sup> CONVENTION ON BIOLOGICAL DIVERSITY / / SZ RF. 1996. No. 19. St. 2254

society and the state so that the use of wild animals does not lead to the long-term depletion of the biological diversity of the animal world. For example, the law of Georgia<sup>12</sup> regulates comprehensively the status, protection and sustainable use of the animal world and its habitat, as well as functioning of the relevant institutional structure. The main purpose of the faunal legislation in Georgia is to ensure effective state management in the field of conservation and use of wild animals. When planning and implementing activities, public authorities and individuals should be guided by the principle of biodiversity conservation.

In general, the legislation on the animal world in Georgia establishes some positive aspects of the mechanism for implementing measures to ensure state faunal management. For example, the law reflects key principles of environmental legislation, such as "sustainable development", sustainable use of resources, and takes into account the interests of future generations. An important factor is that the law attempts to involve public in addressing issues related to the protection and sustainable use of wild animals. In particular, the law stipulates the general principles of public information and participation in the procedures of the EIA and the State Environmental Assessment. Thus, the legislation on the animal world of Georgia has shifted from a "narrow command and control approach"<sup>13</sup>.

to a broader approach based on such legal categories as the conservation and sustainable use of biodiversity. This approach focuses on the active involvement of interested citizens in the decision-making process related to the use of the animal world, and the involvement of local communities in the management of the animal world and the distribution of benefits associated with it.

The law of the Republic of Armenia "On the Animal World" contains a large number of legal norms aimed at implementing the principles of public administration. The economic aspect of sustainable development is realized by establishing a fee for the use of wildlife objects. The effectiveness of management is supported by the implementation of the economic criterion. In particular, the law of the Republic of Armenia<sup>14</sup> establishes the types of payments, the procedure for their calculation, as well as regulates other related issues.

However, a key gap in the Armenian legislation is a lack of attention paid to the problems of local communities and local users, including the protection of their interests and the conditions for access to wildlife management. In

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<sup>12</sup> ON ANIMAL WORLD. [Law of Georgia of December 26, 1996](#)

<sup>13</sup> MORGERA, E.; WINGARD, J.; FODELLA, A. *Developing Sustainable Wildlife Management Laws in Western and Central Asia*. Budapest: FAO, CIC, 2009.

<sup>14</sup> ON NATURE PROTECTION AND NATURE UTILIZATION PAYMENTS, [Law of the Republic of Armenia No. ZR-270 of December 30, 1998](#).

particular, the rules for public participation and access to information in the field of wildlife management are developed in general provisions and without detailed procedures that must be followed to ensure their full implementation. Also, such important activities that potentially affect the animal world, as tourism, acclimatization, and the introduction of alien invasive species are not properly regulated. Thus, in the legislation on the animal world of the Republic of Armenia, there are no clear obligations on the part of the state to develop a comprehensive state policy for the conservation, sustainable use and reproduction of wild animals on a scientific basis.

It is worth noting the positive experience of the development of legislation on the animal world in the Republic of Kazakhstan in the context of the state faunal management principles implementation. Thus, within the framework of the project "Planning for the conservation of biological diversity at the national level to support the implementation of the strategic plan of the CBD in the Republic of Kazakhstan for 2011-2020"<sup>15</sup>, a draft concept for the conservation, sustainable use and reproduction of wild animals in the Republic of Kazakhstan until 2030 was created.<sup>16</sup> According to the norms of this concept, the process of conservation and sustainable use of biodiversity in Kazakhstan consists of: conservation and restoration of rare and endangered species; regulatory support for the protection, reproduction and sustainable use of biodiversity; integrated rational and sustainable use of biodiversity components; a national biodiversity monitoring system that ensures the unity of measurements; introduction of an ecosystem approach and improvement of efficiency in ecosystem management. The Concept also includes criteria and indicators of the effectiveness of public administration in the field of fishing and hunting. Thus, the legislator focuses on the implementation of economic and environmental criteria and indicators of the effectiveness of public administration. However, the rights of traditional users and local populations are almost completely overlooked, except for the general recognition of the possibility of exercising such rights in ecological corridors, buffer zones and natural reserves.

On the contrary, the legislation of Mongolia in the field of state faunal management, although fragmented between different regulatory legal acts, is nevertheless quite comprehensive. Much attention is paid to the rights of citizens in the field of protection and use of wild animals from various perspectives, including participation in decision-making, access to information and a right for compensation for environmental damage. The role of non-

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<sup>15</sup> [Planning for the conservation of biological diversity at the national level to support the implementation of the strategic plan of the CBD in the Republic of Kazakhstan for 2011-2020.](#)

<sup>16</sup> [Concept for the conservation and sustainable use of biodiversity in the Republic of Kazakhstan until 2030. Astana, 2015.](#)

environmental state administrative bodies in ensuring the sustainable management of the animal world is recognized. Thus, in the legislation on the animal world in a number of foreign countries, there is a positive trend in the implementation of the principles of state faunal management and at the same time there is a trend to meet social, environmental and economic needs of citizens, society and the state (Georgia, Mongolia).

However, a large number of states (Turkey, the Republic of Kyrgyzstan, Armenia, and others) still do not implement the social criterion of the effectiveness of public administration in their national legislation on wildlife, which indicates the weakness of state policy and legislation in terms of ensuring the implementation of the principles of public administration in the field of conservation and use of wild animals.

The practice of community management has been successfully implemented in Tajikistan<sup>17</sup>, where, after five years of conservation activities, the number of individual species of wild animals has recovered. As a result, the local community began to receive environmental and economic benefits from this. Two pilot community organizations have been established, equipped and trained in the principles of management, monitoring and protection of wild animals in Kyrgyzstan. In accordance with the Program for the Sustainable Use of Natural Resources, users were delegated the rights to manage wild animals and hunting grounds. Thus, the practice of implementing various projects on the use of wild animals on a sustainable basis in foreign countries allows to provide a balance between the interests of the state and society. The needs of local communities that live off and are affected by the use and conservation of biological diversity, along with their contribution to its conservation, should be reflected in the equitable distribution of benefits from the conservation of wildlife resources.

As a result, many of the considered provisions are of interest for the formation and improvement of the state faunal management in Russia. In particular: focusing on the active involvement of interested citizens in the decision-making process related to the use of wildlife; involving local communities in wildlife management; the practice of implementing strategic planning documents (projects and programs) for the sustainable use of certain types of wild animals, the result of which is the preservation of wildlife objects, which stimulates the economic and social development of territories; active development of eco-tourism, which ensure the preservation of ecosystems, reducing the level of poaching; economic incentives for the protection and use of wildlife; the procedure for providing objects of the animal world for use, etc. Many of these provisions are of interest to the

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<sup>17</sup> [Conservation of wild animals in central Asia through their sustainable use.](#)

Russian legislation and can be used in order to improve the current Russian legislation on the animal world. Other provisions can be used in comparative characteristics for the formation of new ideas in the field of public administration.

#### **4. PROBLEMS OF APPLICATION NORMS OF PUBLIC PARTICIPATION IN THE FIELD OF PROTECTION HUNTING RESOURCES (ON THE EXAMPLE OF RUSSIA)**

International standards on sustainable development and environmental protection emphasize the need for public participation. It is assumed that a greater public participation can improve the quality of decisions made, can affect favorably the public's attitude to these decisions, and improve public perception of state and municipal authorities. In this regard, it should be noted that public perception may differ among different non-governmental parties, depending on the level of consultation. Thus, public perception should be ensured at both central and local levels, especially with the involvement of rural communities.

Initially, public authorities considered the rules on public participation burdensome, as they were concerned that the decision-making process would be slowed down due to a huge number of comments. However, such fears are usually exaggerated. Another reason for negative attitude of the authorities towards the approaches of joint participation with public is a fear of losing power, although the process of joint participation does not undermine the role of state and municipal authorities in the balance of competing interests. Rather, it calls for transparency in the process and the need to justify decisions in the light of public concerns presented in the consultation process. Thus, public participation gives legitimacy to the decision-making process, and can lead to an improved image of public officials making decisions.

Legislation on wildlife, like all laws relating to resource allocation, can and should contribute to creating such a transparent decision-making process. Even when the rules on participation are contained in the law, they can be difficult to apply in practice, as they are often specified in the most general terms, without clarity about the process and the result.

A vivid example of ignoring the public opinion in making important decisions in the field of protection and use of wildlife was the discussion of the draft law "On Open-air Cage Hunting". This bill proposed to grant a right to hunt for hunting resources that are kept and bred in semi-free conditions and



artificially created habitat for the purpose of their extraction.<sup>18</sup> It was the inhumane nature of the proposed amendments that caused a wide public response.

This legislative initiative caused a negative reaction in the society long before the date of consideration by the legislative body. First public demonstrations against the legalization of “open-air cage hunting” were held in Moscow on 09.02.2019, when activists of the Alliance for the Protection of Animals organized a “live line” of those who want to file a petition to prevent the legalization of “open-air cage hunting” in the name of the president of the Russian Federation V. Putin. Within the framework of this action, its participants submitted 162 appeals to the president of the Russian Federation. In February 2019, individual and mass pickets, as well as public surveys, were organized in such cities as Yekaterinburg, Izhevsk, and Ryazan.<sup>19</sup> At the same time, the petition against the legalization of “open-air cage hunting” had already collected more than 180 thousand votes, by the time of preparation of this article – 335,533 votes, and another, similar petition—more than 200,000.<sup>20</sup> In May 2019 the alliance of animal defenders held a series of single pickets against the bill on “open-air cage hunting” at the building of the Russian parliament.<sup>21</sup> It is noteworthy that critical publications of the public against the legalization of “open-air cage hunting” appear on a variety of information platforms, including the specialized “hunting” ones. So, after the adoption of the bill in the first reading, the portal Ohotniki.ru quoted MP Sergei Mironov, who called on parliamentarians to refuse to consider it further, as it “contradicts all the norms on the protection of animals, which were so difficult to approve in recent years.”<sup>22</sup> The head of the Committee on Ecology of the Moscow Regional Duma Alla Polyakova strongly opposed the adoption of the law due to its inhumanity.<sup>23</sup> Deputy Chairman of the State Duma Olga Epifanova directly called the main motive for promoting the bill greed, the interests of “cruel and immoral” business. According to her, the references of the developers of the bill to foreign experience are incorrect. “Referring to the world practice, the authors lie openly. Indeed, in many countries, animals are raised in aviaries, although there are many more birds. But they are raised and

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<sup>18</sup> ON HUNTING AND ON THE CONSERVATION OF HUNTING RESOURCES AND ON AMENDMENTS TO CERTAIN LEGISLATIVE ACTS OF THE RUSSIAN FEDERATION (regarding the extraction of hunting resources in semi-free conditions or artificially created habitat) [Amendments to the Federal Law. draft law No. 689852-7](#).

<sup>19</sup> [Alliance of animal defenders](#), 2020.

<sup>20</sup> [Change](#).

<sup>21</sup> ON HUNTING AND ON THE CONSERVATION OF HUNTING RESOURCES AND ON AMENDMENTS TO CERTAIN LEGISLATIVE ACTS OF THE RUSSIAN FEDERATION (regarding the extraction of hunting resources in semi-free conditions or artificially created habitat) [Amendments to the Federal Law. draft law No. 689852-7](#)

<sup>22</sup> OHOTNIKI.RU, december 18, 2019. [Link](#).

<sup>23</sup> OHOTNIKI.RU, december 24, 2019. [Link](#).

released into hunting grounds, and are not hunted directly in aviaries.”<sup>24</sup> Thus, during the discussion of the draft law, the public spoke out against the adoption of certain provisions of the draft. However, none of the suggestions and wishes of the public were taken into account by the project developers. Despite active protests, the law on open-air cage hunting was adopted. That is, a dialogue between the government and the public did not occur. And this indicates the ineffectiveness of public participation in decision-making in the field of protection and sustainable use of wildlife and a lack of public opinion acceptance.

With the adoption of the federal law “On Hunting and on the Conservation of Hunting Resources and on Amendments to certain legislative Acts of the Russian Federation”, measures were taken to streamline the territorial use of hunting. In particular, this law provides for the availability of no less than 20% of public hunting grounds in the total area of the subject of the Russian Federation. Free access to these lands for hunting purposes is available to any citizen of the Russian Federation who has received a right to hunt and a permit to extract hunting resources. A distinctive feature of the organization the use of hunting animals that live in publicly accessible hunting grounds is the requirement arising from the law on hunting to establish a special procedure for the distribution of permits for their extraction among individuals.<sup>25</sup> Beginning with the 90s of the last century, the main trend in the development of legal relations related to the use of hunting grounds has been to secure them to long-term hunting users as much as possible, accompanied by increased administrative regulation of the activities of hunting farms. For this reason, in a number of subjects of the Russian Federation, the area of public land is small, either there is no such. Where publicly available hunting grounds are maintained, their resources tend to be poorer than in designated hunting grounds. “This is due to the fact that public hunting grounds were formed on the “residual principle”, as a result of the fact that legal entities and individual entrepreneurs requested and received the most productive areas of territorial natural complexes for use. For the same reasons, public hunting grounds are often located in remote, sparsely populated areas, which further reduces their value from the point of view of a mass hunter.”<sup>26</sup> This issue is

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<sup>24</sup> TASS.RU, [Link](#). December 25, 2019.

<sup>25</sup> ON THE APPROVAL OF METHODOLOGICAL RECOMMENDATIONS ON THE DISTRIBUTION OF PERMITS FOR THE EXTRACTION OF HUNTING RESOURCES BETWEEN INDIVIDUALS ENGAGED IN HUNTING IN PUBLICLY ACCESSIBLE HUNTING GROUNDS. [Order of the Ministry of Natural Resources of the Russian Federation of 07.12.2011 N 946](#)

<sup>26</sup> SHULYATYEV, A. A.; ANDREEV, M. N.; GREBNEV I. A. Hunting resources of public lands and the procedure for distributing permits for their extraction for amateur and sports hunting. *Modern problems of nature management, hunting and animal husbandry*, n. 1, 2012, pp. 300-302



resolved without consultation with public, contrary to the principle of public administration to involve public in the most important decisions in the field of hunting resources protection, if these issues concern the interests of citizens and public organizations.

For example, in the Ivanovo region, hunting grounds cover an area of just over 2 million hectares. According to the state hunting register, the share of the area of the Ivanovo region hunting grounds, in respect of which hunting agreements have been concluded with 34 legal entities, or in respect of which long-term licenses for the use of wildlife are issued to legal entities, is 44.73% of the total area of hunting grounds in the region (899.08 thousand hectares). As of December 31, 2015, the public hunting grounds amount to 1086.83 thousand hectares or 54.08 % and are the state reserve fund. In this regard, the target indicator for the direction "The share of the area of fixed hunting grounds in the total area of hunting grounds", established for the Ivanovo region, was 44.73 %, with the planned-69.82%.<sup>27</sup>

However, this report does not indicate what the qualitative assessment (bonitation) hunting grounds (public and fixed) is. "Bonitation reflects the value of land for the habitat of a particular type of hunting animals and is given in bonitets, i.e. points corresponding to a certain gradation of value"<sup>28</sup>. Therefore, when forming hunting grounds, it is important to take into account their bonitation. Analyzing the practice of making hunting agreements, it can be concluded that the areas of fixed hunting grounds are mainly the most valuable land, including mainly forests, where there is the largest concentration of hunting resources. The formation of public lands is carried out according to the "residual principle" and includes the areas of the least valuable for hunting territory (for example, agricultural land). "Each farm (land) must meet the following main criteria:

- Ecological capacity of the territory. The ecological capacity of a separate farm (land) must meet the territorial requirements of certain types of hunting fauna;
- Territorial sufficiency. The land should have an optimal area that allows for its full-fledged economic use in the future;

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<sup>27</sup> REPORT OF THE HEAD OF THE DEPARTMENT OF NATURAL RESOURCES AND ECOLOGY OF THE IVANOVNO REGION O. I. KRAVCHENKO at the meeting of the Board of the Department of Natural Resources and Ecology of the Ivanovo Region on 28.01.2016 on the topic: "Report on the activities of the Department of Natural Resources and Ecology of the Ivanovo region in 2015 and tasks for 2016»

<sup>28</sup> DANILOV D. N., RUSANOV YA. BONITIROVKA S. Hunting grounds. Fundamentals of hunting management. M., Forest industry, 1966. pp. 136-173.

11. EXTRACTION OF HUNTING RESOURCES – CATCHING OR SHOOTING OF HUNTING RESOURCES (item 4, Article 1, Law on Hunting of the Russian Federation)

- Manageability of the territory. It is provided by allocating territories with a relatively compact configuration for a separate farm (land);
- The presence of clear and set guidelines for the boundaries of the land”<sup>29</sup>.

So, it can be observed that the qualitative assessment (bonitation) of land does not relate to the main criterion of a hunting ground. However, in our opinion, the application of this criterion will allow us to correctly distribute the shares of hunting grounds in the formation of publicly accessible and fixed hunting grounds. There occurs a situation in which the subjects of the Russian Federation, on the one hand, fully comply with the requirements of Article 71 on hunting on the percentage of publicly available hunting grounds, on the other hand, the qualitative assessment of such lands for the habitat of a particular type of hunting animal is low and, accordingly, citizens cannot exercise their right to hunt due to the lack of hunting objects in publicly available lands. We consider it necessary, in accordance with article 71 of the Law on hunting, to develop a methodology for the formation of hunting grounds, taking into account their qualitative assessment and involving public in solving this issue.

In accordance with Article 2 of the federal law “On Hunting and on Conservation of Hunting Resources and on Amendments to Certain legislative acts of the Russian Federation”, one of the principles of legal regulation in the field of hunting and conservation of hunting resources is the participation of citizens and public associations in the preparation of decisions concerning hunting resources and their habitat, but the subsequent provisions of the law do not reflect the specific forms and mechanisms of such participation. This principle presupposes the participation of citizens and public associations in the preparation of decisions concerning the use, protection, conservation and reproduction of relevant natural resources in accordance with the procedure and forms established by the legislation of the Russian Federation.

*“However, it has not been developed in the regulatory norms of the legislation, specific procedures for public participation have not been defined. Meanwhile, the provisions of the law on Hunting, regulating the procedure for holding an auction for the right to make a hunting agreement (art. 28), could contain provisions on taking into account the opinion of the population living near the hunting grounds or on the territory of the relevant municipalities, hunting public organizations, for example, the results of public hearings on environmental and social conditions included in the subject of the auction as part of encumbrances of land and forest plots located within the boundaries of the hunting grounds, restrictions on the use of forests and other natural resources, the parameters of hunting.*

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<sup>29</sup> SCHEME OF PLACEMENT, USE AND PROTECTION OF HUNTING GROUNDS OF THE TYUMEN REGION. [Link](#)

*Moreover, the law also proclaims such a principle as taking into account the interests of the population, for which hunting is the basis of existence (Article 2)”<sup>30</sup>.*

The procedure for forming a separate hunting ground (land plot) does not involve holding public hearings or other forms of registration of the public living in the relevant localities (municipal districts),

*“as well as obtaining the consent of the owners to include their land plots in the hunting grounds. If we are talking about state (federal and constituent entities of the Russian Federation) or non-delimited state ownership of land, then the procedure set out in the law on hunting fully justifies itself. However, taking into account that hunting grounds can be located on agricultural land, most of which is in private, not state ownership, the arbitrary establishment of encumbrances on the rights of private owners does not correspond, in our opinion, to the Constitution of the Russian Federation”<sup>31</sup>.*

Supporting the indicated opinions of scientists, it should be noted that the boundaries of hunting grounds may include land plots that are privately owned and intended, for example, for agricultural production. Taking into consideration that hunting users do not coordinate their activities with the owners of land plots within the boundaries of the hunting farm, favorable conditions for conflicts of interest and social tension are formed. An example is the inconsistency of the actions of a hunting user and an agricultural user, in which hunting occurs simultaneously with harvesting on the same territory.

We believe it necessary to develop a mechanism for coordination with the owners of land plots when forming the boundaries of hunting grounds, as well as to provide for specific forms of public participation in making management decisions on the formation of hunting grounds. As a result, the law on the animal world should provide minimum requirements for public participation in decision-making concerning the animal world at the central and local level.

The following options are proposed, which can be taken into account in order to improve the effectiveness of the implementation of the norms on public participation in solving issues related to the protection of wildlife:

1. Permanent and regular access to meetings of legislative bodies. The law may simply allow public or interested participants to take part in meetings convened to make decisions concerning protection and use of wildlife;
2. Legally binding consultations. The law may establish an obligation for state and municipal authorities to use public

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<sup>30</sup> VASILYEVA M. I. The right of citizens to access to natural resources (general theoretical and intersectoral justification). *Journal of Russian Law*, vol. 183, n. 3, 2012, p. 8

<sup>31</sup> ANISIMOV A. P. The legal regime of hunting ground. *Yuridicheskaya nauka*, n. 1, 2013

consultations in the period preceding the adoption of a decision concerning protection of wildlife. Such consultations should include: publication of proposed instructions and solutions; exchange of information on the process of receiving and reviewing critical comments within a reasonably short time; obligation of public authorities to take into account the critical comments received; obligation of public authorities to provide in writing the reasons for the decision taken, and to allow public to monitor how critical comments were taken into account.

3. Establishment of a public supervisory authority. Laws can create special bodies that provide for permanent public participation in decisions concerning wildlife, as well as monitoring the implementation of decisions. The law should establish an obligation for the authority to take into account and respond to the recommendations of this supervisory authority.

## **5. CONCLUSION**

The article examines the principles and criteria of public participation in solving issues in the field of protection and use of wildlife. When determining the criteria for the effectiveness of public participation, it is necessary to be guided by the interests of people. Social interests represent the needs of the state and society in the implementation of social programs, the preservation of income, living standards and employment in the field of sustainable use of wildlife. Public administration is carried out to provide sustainable use of wild animals, while maintaining an ecological balance.

The author believes that the practice of implementing various projects on the use of wild animals on a sustainable basis in foreign countries allows us to ensure a balance between the interests of the state and society. The needs of local communities that live off and are affected by the use and conservation of biological diversity, along with their contribution to its conservation, should be reflected in the equitable distribution of benefits from the conservation of wildlife resources. Based on the analysis of certain provisions of the legislation on the animal world and law enforcement practice, the author comes to the conclusion that the legal basis for the participation of citizens in the management of protection and sustainable use of the animal world in Russia is quite extensive. However, the subsequent provisions of the law did not reflect the specific forms and mechanisms of such participation. The rules for public participation and access to information in the field of wildlife management are unsatisfactory, since these issues are simply addressed in a limited number of cases. The relevant norms are developed in excessively general terms and without detailed procedures that should be followed to provide their full

implementation. The author offers specific solutions to the problems for attracting public in order to address management issues in the field of protection and use of wildlife, which can be taken into account.

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