



SK EUTR case of Town RS

on the Court of Justice
of the European Union
in Luxembourg



SK EUTR Case of Town RS Case C-370/23

The hearing in Case C-370/23
will take place on 15 May 2024
at the Court of Justice in Luxembourg.

Chronology of Town RS case

- Town RS as a forest owner and a forest manager sold wood/timber „on the stumps“ to a buyer.
- SK CA on EUTR – The Slovak Forestry and Timber **Inspectorate** found that **Town RS didn't have DDS**. Inspectorate (which is 1. step EUTR administrative body too) issued decision on the lowest possible **penalty 2 000,-€** and imposed corrective measure to exercise DDS for Town RS (according SK EUTR implementation Act).
- **Town RS, on the basis of European Commission EUTR Guidance document from 12.2.2016 - scenario 10a, is of the opinion, that EUTR operator is the buyer.**
- Town RS appealed and **The Ministry of Agriculture** and Rural Development of the SR (2. step administrative body) confirm decision of Inspectorate.
- Town RS appealed again against Ministry and Inspectorate decisions on **The Regional court**. The Regional court confirmed decision of Inspectorate and Ministry.
- Town RS lodged a cassation complaint on The **Supreme Administrative Court of the Slovak** with proposal to ask the question on the **Court of Justice of the European Union in Luxembourg**. The SK Court met this proposal.



The Supreme Administrative Court of the Slovak Republic stayed the proceedings on the **cassation complaint of Town RS** and submitted a reference for a preliminary ruling to the Court of Justice of the European Union in Luxembourg as follows:

Is it necessary to interpret article 2(b) EUTR in such a way that placing timber on the market is too selling wood in the rough and fuel wood, referred in Annex 1 EUTR, against payment, if logging under contract is carried out by the buyer on the base of instructions and under supervision of seller ?



COMMISSION NOTICE of 12.2.2016

GUIDANCE DOCUMENT FOR THE EU TIMBER REGULATION

- **Scenario 10a**

Forest owner Z sells to company A the right to harvest standing trees on Z's land, for distribution or use through A's own business.

Company A becomes an operator when it harvests the timber for distribution or use in its own business.

Why is Town RS an EUTR operator ?

1. Scenario 10a from EC EUTR Guidelines do not apply for SK.
2. Town RS as a registered forest manager must keep forest records, which are necessary for EUTR DDS in SK.
3. The tree is part of the land. Wood „on the stump“ cannot be sold.



Why is Town RS an EUTR operator ?

- **We do not have legal regulation for selling timber-harvesting rights** in SK legal system.
- Scenario 10a from EC EUTR Guidelines do not apply for SK.



Why is Town RS an EUTR operator ?

- According **SK Forest Act** § 4
we have legal regulation for a **registered forest manager**. **Registered forest manager** has **rights and obligations related to forest management** including of timber harvest obligations and keeping forest records.
- Forest owner - Town RS is a **registered forest manager according SK Forest Act** and has obligation to **keep forest records**.
- **SK forest records are necessary to exercise, maintain and evaluate DDS**. Therefore, Town RS as a registered forest manager is EUTR operator in SK.
- A Buyer of wood has no access to forest records, no obligation to keep them. A Buyer of wood cannot exercise, maintain and evaluate DDS. A **Buyer of wood is EUTR trader in SK**.



Why is Town RS an EUTR operator ?

- According **SK Civil Code**, § 120 (1)
„A thing includes everything that, by its nature, belongs to it and cannot be separated without devaluing the thing.“
- Wood „on the stump“ cannot be sold. **The tree is part of the land.**
- The tree is always owned by the owner of the land.

