



# Report on analysis of the existing elements and gaps in the national legislation of Georgia related to implementation of the Protocol on Strategic Environmental Assessment to the Espoo Convention

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## List of Abbreviations

ADB - Asian Development Bank  
BNPP - Bank-Netherlands Partnership Program  
CBD - Convention on Biological Diversity  
CENN - Caucasus Environmental NGO Network  
CIDA- Canadian International Development Agency  
EaP GREEN - Greening Economies in the Eastern Neighbourhood programme  
EIA - Environmental Impact Assessment  
GIZ - German Society for International Cooperation  
EU – European Union  
NCEA - Netherland Commission for Environmental Assessment  
NEAP - National Environmental Action Programme  
NGO - Non-governmental organization  
OECD - Organisation for Economic Co-operation and Development  
REC – Regional Environmental Centre for Central and Eastern Europe  
SEA - Strategic Environmental Assessment  
SEAP - Sustainable Energy Action Plan  
UNDP - United Nations Development Programme  
UNECE - United Nations Economic Commission for Europe  
UNEP - United Nations Environment Programme  
UNIDO - United Nations Industrial Development Organization

## Executive summary

Georgia is not yet a Party to the Convention on Environmental Impact Assessment in a Transboundary Context (Espoo Convention) and its Protocol on Strategic Environmental Assessment<sup>1</sup> (Protocol on SEA). To better prepare for accession to the treaty the country requires to undertake a number of steps and develop a national system to apply EIA and SEA procedures according to the provisions of the Espoo Convention and the Protocol on SEA, including improving its legislative and institutional framework to fully comply with the Convention and its Protocol

This Report was prepared as part of the legislative assistance to prepare for drafting of the national legislation on EIA and SEA. The purpose of the Report is to identify SEA elements present in the current legislative framework of Georgia and to examine the identified SEA elements, detect gaps and develop recommendation to guide development of legislation for application of SEA in Georgia in compliance with the provisions of the Protocol on SEA.

The Report briefly presents the requirements of the Protocol on SEA, summarizes national strategic planning system, environmental assessment system, and presents analysis of the key stakeholders.

At present the Georgian legislation does not provide for the procedures for developing and adopting national, regional and/or sectoral strategies, plans and programmes. There is legislation on environmental assessment of specific activities (projects) that establishes the system of environmental impact assessment, however, Georgia has no particular legislation on Strategic Environmental Assessment.

In order to ratify and implement the Protocol on SEA as well as to approximate the legislation to the EU EIA and SEA Directives it is recommended:

- To prioritize and determine the types of the strategic documents that should be covered by the suggested SEA legislation;
- To develop and adopt one new law on environmental assessment that shall cover both EIA and SEA procedures. As the starting point for the drafting the Draft Law on Environmental Assessment System prepared in 2006 by CENN could be taken.
- To ensure compliance with the requirements of the SEA Protocol, the Espoo and Aarhus Conventions, as well as to transpose at maximum the provisions of the EIA and SEA Directives;
- The law might also include the chapter on biodiversity assessment in order to support transposition of the requirements of the EU Habitat Directive;

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<sup>1</sup> The Protocol on Strategic Environmental Assessment to the Convention on Environmental Impact Assessment in a Transboundary Context (SEA Protocol) was adopted in 2003 during a ministerial conference “Environment for Europe” in Kyiv (Ukraine). It entered into force on July 11, 2010.

- To elaborate the list of projects that require EIA based on Annex I and Annex II of the EIA Directive.
- To elaborate the list of legislation (including legislation that regulate issuance of relevant licenses and permits and development of strategic documents) and make legislative changes needed in order to ensure references to relevant EIA and SEA requirements;

To adopt additional measures and thus facilitate effective implementation of the introduced procedures, including:

- development of SEA guidelines for public servants and other stakeholder groups;
- implementation of pilot SEA procedures for different types of strategic documents.

## Introduction

Georgia is not yet a Party to the Convention on Environmental Impact Assessment in a Transboundary Context (Espoo Convention) and its Protocol on Strategic Environmental Assessment. To better prepare for accession to the treaty the country requires to undertake a number of steps and develop a national system to apply EIA and SEA procedures according to the provisions of the Espoo Convention and the Protocol on SEA, including:

- Improving its legislative and institutional framework to fully comply with the Convention and its Protocol
- Defining roles and responsibilities of various authorities in the EIA and SEA process
- Building national and local capacities, developing practical experience and national guidelines in application of the EIA and SEA procedures in line with the Convention and its Protocol
- Raising awareness and common understanding of the benefits of the EIA and SEA at national and local levels and in different sectors, including the benefits of public participation and the consultation of relevant authorities.

In 2013, Georgia informed the Espoo Convention secretariat of its plans to carry out reforms in the existing EIA and SEA systems. It requested support from the secretariat in reviewing and evaluating its Law on Environmental Permit in respect to the provisions of the Espoo Convention as well as other relevant EU EIA legislation, and making recommendations, as appropriate. To this end, a legislative and institutional review on application of EIA to projects was carried out by consultants to the secretariat in 2013 (completed in January 2014)<sup>2</sup>. The review indicated several gaps in the legislation and suggested to address them through amending the current legislation or drafting a new law on EIA.

In January 2014, Georgia informed the secretariat, that as a follow-up action to the legislative review, it intended to develop a new law on EIA, with a view to acceding to the Convention. It also pointed out that according to its Association Agreement with the EU, Georgia among others is obliged to fulfil the requirements of the EU EIA Directive. Therefore, Georgia requested the secretariat to support its efforts to accede to the Convention and to ratify relevant EU legislation. In March 2014, Georgia informed the secretariat that its envisions that the Law on EIA will also incorporate provisions on SEA in accordance with the Protocol on SEA. At the six session of the

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<sup>2</sup>[http://www.unece.org/fileadmin/DAM/env/eia/documents/EaP\\_GREEN/2\\_results\\_comp\\_1/Espoo\\_Review\\_Georgia\\_FINAL\\_January2014.pdf](http://www.unece.org/fileadmin/DAM/env/eia/documents/EaP_GREEN/2_results_comp_1/Espoo_Review_Georgia_FINAL_January2014.pdf)

Meeting of the Parties to the Espoo Convention and its Protocol, in June 2014 in Geneva, the Government of Georgia confirmed its request to the UNECE secretariat to assist in addressing the above mentioned challenges. The request was reflected in the adopted workplan of the two treaties for 2014–2017 containing the following activities:

- (a) Review of existing strategic environmental assessment (SEA) legislation and procedures to be carried out from June to October 2014, followed by the drafting of relevant legislation in 2015 (if required);
- (b) Pilot application of an SEA procedure to a draft Government plan or programme, combined with national and local level training workshops on SEA to be held in 2015 and 2016;
- (c) Preparation in 2015 of national guidelines on the application of SEA in Georgia;
- (d) Participation of national experts of Georgia in three annual subregional experience-sharing events.

The activities are funded through the EU Programme ‘Greening Economies in the Eastern Neighborhood’.

This Report was prepared as part of the legislative assistance to prepare for drafting of the national legislation on EIA and SEA (see item a) above). The Report briefly presents the requirements of the Protocol on SEA (Chapter II), summarizes national strategic planning system, environmental assessment system, and presents analysis of the key stakeholders.

This legislative review (mapping exercise) was carried in July – August, 2014. The Report is prepared by the international consultant Mr. Dmytro Skrylnikov with the assistance of the national experts Mr. Merab Barbakadze and Ms. Inga Arakhamia based on analysis of the legislation in force, existing draft legislation as well as other information researched. The purpose of the Report is:

- to identify SEA elements present in the current legislative framework of Georgia
- to examine the identified SEA elements, detect gaps and develop recommendation to guide development of legislation for application of SEA in Georgia in compliance with the provisions of the Protocol on SEA.

The first draft report prepared was presented for the consultations with the stakeholders at the round-table event on August 25-26, 2014. Comments from the participants of the consultations received during the consultations are taken into account in the final report.

## I. General aspects at the international level

I.1 Georgia is not yet a Party to the Espoo Convention and the Protocol on SEA.

Some other conventions provide diversified EIA and/or SEA obligations and requesting EIA and/or SEA to be conducted, such as:

- Convention on the Protection and Use of Transboundary Watercourses and International Lakes (Water Convention)
- Convention on Biological Diversity (CBD).
- Convention on the Transboundary Effects of Industrial Accidents
- Convention on Access to Information, Public Participation in Decisionmaking, and Access to Justice in Environmental Matters (Aarhus Convention)

Georgia is a Party to the Aarhus Convention as well as a Party to the Convention on Biological Diversity.

### I.2 *EU-Georgia bilateral agreements:*

*The Partnership and Cooperation Agreement (PCA)* entered into force on 01 July 1999. As per Article 43 of this agreement Georgia has an obligation to make domestic legislation (including EIA legislation) compatible with EU legislation. In accordance with Decree No.613 of President of Georgia (June 14, 2001) “The Strategy of Harmonization of Georgian Legislation with that of the European Union” was developed and on May 8, 2004 Georgian government endorsed “National Programme of Harmonization of Georgian Legislation with that of the European Union”.

*The European Neighbourhood Policy Action Plan (ENP AP)* until 2013 for Georgia was signed on November 14, 2006. The following priorities are set forward in the Action Plan: political dialogue and reform, trade-related issues and preparation of the partners with a view to adopting the positions on the international market, rule of law and domestic issues, sustainable development, energy, transport, public awareness, environmental protection and science, social policy and people-to-people contacts <sup>3</sup>.

Georgia initiated the *Association Agreement with EU* at the Summit in Vilnius on November 29, 2013 and this agreement was signed in June 2014. The Georgian Parliament ratified the Association Agreement with the European Union on July 18, 2014. As per EU-Georgia Association Agreement, inter alia, undertakes to gradually

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<sup>3</sup> See more: Monitoring report on the implementation EU - Georgia ENP Action Plan, 2013, Green Alternative - [http://greenalt.org/wp-content/uploads/2013/11/ENP\\_AP\\_Monitoring\\_2013.pdf](http://greenalt.org/wp-content/uploads/2013/11/ENP_AP_Monitoring_2013.pdf) and The Assessment of Implementation of the ENP EU-Georgia Action Plan -Environment and Sustainable Development 2007-2012”, 2013, Green Alternative- [http://greenalt.org/wp-content/uploads/2013/12/ENP\\_AP\\_2013.pdf](http://greenalt.org/wp-content/uploads/2013/12/ENP_AP_2013.pdf)

approximate its legislation to the particular EU legislation (including main environmental EU directives) and international instruments (listed in the Annexes to the Association Agreement) within the stipulated timeframes. According to its Association Agreement with the EU, Georgia among others is obliged to fulfil the requirements of the Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment (EIA Directive)<sup>4</sup> and Directive 2001/42/EC of the European Parliament and of the Council of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment (SEA Directive).

### *1.3 Ratification of international agreements.*

The procedure for preparing, signing, ratifying, promulgating, fulfilling, denouncing and abrogating international agreements and treaties of Georgia is determined by the Constitution of Georgia (1995), the Law of Georgia on Normative Acts (2009), the Law of Georgia on International Agreements (1997) and the Rules of Procedure of the Parliament of Georgia. Article 6, paragraph 2 of the Georgian Constitution provides that international treaties, subject to Constitutional norms, take precedence over domestic normative acts.

According to the Article 6 of the Law of Georgia on International Treaties of Georgia international treaties are an integral part of the legislation of Georgia. Treaties of Georgia take precedence over domestic normative acts unless the treaties contradict the Constitution, constitutional law and constitutional agreement of Georgia. Provisions of the treaties determining the specific rights and obligations and not requiring transposition in domestic legislation by adopting specific acts, shall be directly applicable in Georgia.

According to the Article 20 of the Law of Georgia on Normative Acts (2009) the issue of ratifying international agreements or treaties which result in amendments to the legislation of Georgia shall not be discussed by the Parliament of Georgia, unless accompanied by a draft law on amending the respective legislative act.

## **II. Main elements of the SEA process under the SEA Protocol**

II.1. Under the SEA Protocol strategic environmental assessment means the evaluation of the likely environmental, including health, effects, which comprises the determination of the scope of an environmental report and its preparation, the carrying-out of public participation and consultations, and the taking into account of the environmental report and the results of the public participation and consultations in a plan or programme (art. 2, para. 6).

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<sup>4</sup> Amended in 2014 by Directive 2014/52/EU. The newly amended EIA Directive (2014/52/EU) entered into force on 15 May 2014

The Protocol sets out a process for carrying out the SEA of plans and programmes, as well as, to some extent, of policies and legislation:

- Field of application concerning plans and programmes (at.4)
- Screening (art.5).
- Scoping to determine the content of the environmental report (art. 6).
- Environmental report (art. 7).
- Public participation (art. 8).
- Consultation with environmental and health authorities (art. 9).
- Transboundary consultations (art. 10).
- Decision on the adoption of the plan or programme (art. 11).
- Monitoring of effects (art. 12).
- Application to policies and legislation (art.13).

Main elements of the SEA process are shown in Figure 1 and also main requirements listed in the Table below (p.V.2.).

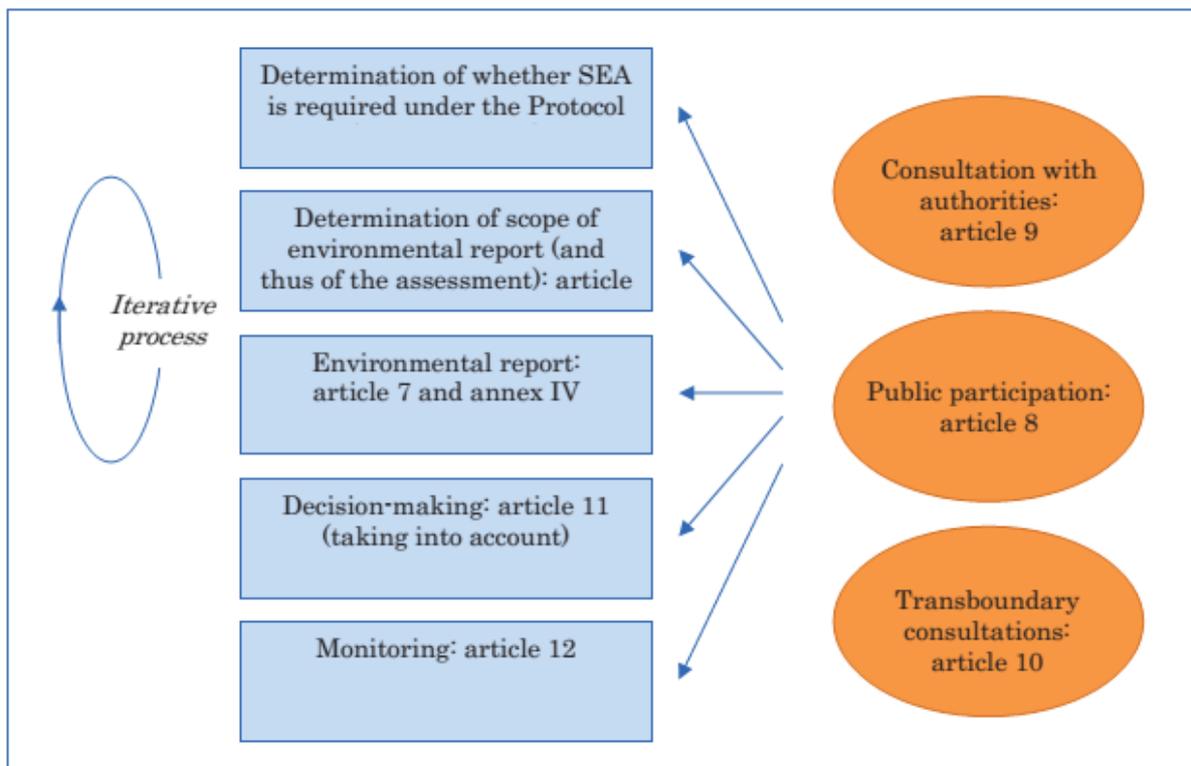


Figure 1. Elements in SEA of plans and programmes.<sup>5</sup>

### III. Identification of the types of strategic documents at the national level

III.1. The first requirement in order for plans and programmes to be subject to SEA under the Protocol is that they must meet the conditions of both subparagraphs in the definition of plans and programmes (art. 2.5). In other words, they must be both “subject to

<sup>5</sup> Resource Manual to Support Application of the Protocol on Strategic Environmental Assessment. United Nations, New York and Geneva, 2012.

preparation and/or adoption by an authority or prepared by an authority for adoption, through a formal procedure, by a parliament or a government” and “required by legislative, regulatory or administrative provisions”. Further requirements are laid down in article 4, which specifies for which plans and programmes satisfying article 2.5 an SEA is required. Article 4 contains a set of criteria that have to be considered; when these criteria are met an SEA has to be carried out. (The corresponding provisions in the SEA Directive are in article 3, paragraphs 1–4 and 8–9.)

Many so-called plans and programmes will not require SEA, while some so-called policies, strategies, projects, concepts, laws, regulations and so on, will. It is useful to bear in mind the following when considering whether SEA is required under the Protocol:

- The term “plan or programme” is not sufficient qualification.
- Not all plans and programmes will require SEA, but only those plans and programmes meeting a number of conditions.
- Some so-called policies, strategies and concepts that have the features of plans or programmes defined by the Protocol will require SEA. It is even possible that some laws and regulations might fall within the field of application of the Protocol, again provided that they meet its conditions.<sup>6</sup>

The “plans and programmes” here are used in a broader sense and they imply strategic documents in general.

III.2. There are different names used for strategic documents in the national legislation. The most commonly used names for the strategic documents are: programme, strategy, plan or action plan (types of spatial planning and urban development documents are described below).

For example, in the Law of Georgia on the Structure, Powers and Order of Activity of the Government of Georgia (2004), which regulates structure, powers and order of activity of the Government of Georgia, it says that the adoption and implementation of the state targeted programmes in the socio - economic, cultural and other areas falls under exclusive competence of the Government of Georgia. All existing state programmes, strategy documents and plans are approved by Government of Georgia mainly refer to this law.

According to the Article 19(b) of the Local Self-Government Code (2014) in exercising the powers the municipal authorities develop, approve and implement appropriate programs, strategies, action plans and projects.

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<sup>6</sup> See more in Resource Manual to Support Application of the Protocol on Strategic Environmental Assessment. United Nations, New York and Geneva, 2012. -

<http://www.unece.org/fileadmin/DAM/env/documents/2011/eia/ece.mp.eia.17.e.pdf>

III.3. The Georgian legislation does not give general explanation about what kind of documents the plan, program or policy are and whether they differ from each other by their scope, level of specification or legal status.

Nevertheless, there is a certain practice of development of plans and programs in Georgia; though there is less practice of development of policy documents. As a rule, such documents are developed by administrative bodies (as a rule, with the donor support); consultations are often held with the interested agencies and other stakeholders in the process of their preparation and finally they are approved by various statutory acts (for example, by presidential or governmental decrees, or by the acts issued by the heads of different public authorities). Since the legislation does not determine either their place in the planning system or their status, the practice of their adoption/approval/endorsement is different in each particular case (there is a slight difference in environmental planning which is discussed below). At the same time, there are frequent cases, when the document of this type is being developed, but finally it is not officially adopted/approved<sup>7</sup>.

When it comes to the environmental planning system, it is important to note that the Article 15 of the Law on Environmental Protection (1996) determines the elements of system: the long-term strategic plan (strategy for sustainable development), the five-year plan (National Environmental Action Programme), regional, public authority-level and local programs and environmental management plans for the objects of activities. The strategy for sustainable development of the state is considered as a basis for the actions intended for environmental protection. This strategy is elaborated by the Ministry of Environment and Natural Resources Protection of Georgia, along with other interested institutions. The Ministry of Environment and Natural Resources Protection of Georgia also bears responsibility to organize preparation of the draft of National Environmental Action Programme. Public participation in preparation of the draft of strategy for sustainable development is mandatory requirement of the law. The draft of strategy for sustainable development is to be approved by the Parliament of Georgia. According to the p. 8 of the Article 15 of the Law on Environmental Protection detailed procedures of the development and adoption of these documents should have been specified by law, but such legislation has never been adopted.

III.4 Georgia's law on Fundamentals of Spatial Planning and Construction Development (2005) regulates the process of spatial planning, specifies its goals and tasks, identifies the agencies authorized to consider issues related to planning, and spells out the

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<sup>7</sup> Implementation of Aarhus Convention in Georgia, Alternative report, April 2014, Green Alternative - [http://greenalt.org/wp-content/uploads/2014/04/Aarhus\\_convention\\_alternative\\_report\\_ENG\\_2014\\_final.pdf](http://greenalt.org/wp-content/uploads/2014/04/Aarhus_convention_alternative_report_ENG_2014_final.pdf)

types of planning covered by the law and the hierarchy of the planning process.

Plans are divided into:

1. Spatial planning; and
2. Urban development.

Documents for spatial planning are divided into:

- Master plans for the country (country level);
- Special plans for Autonomous Republics (regional level);
- Territorial development plans (local level).

The planning documents for developing urban residential areas (city, urban settlement, community, and village) are:

- Land-use master plan (local level);
- Development regulatory plan (local level).

#### **IV. Identification of strategic documents at the national level that will require SEA under the SEA Protocol**

According to the article 4.2 of the SEA Protocol strategic environmental assessment shall be carried out for plans and programmes which are prepared for agriculture, forestry, fisheries, energy, industry including mining, transport, regional development, waste management, water management, telecommunications, tourism, town and country planning or land use, and which set the framework for future development consent for projects listed in annex I and any other project listed in annex II of the Protocol that requires an environmental impact assessment under national legislation.

The scope and timing of the mapping exercise do not allow identifying and reviewing all major national and subnational (e.g., region or local) plans and programmes in the country that might fall within the scope of the Protocol. In this Chapter only some examples are selected to illustrate different types of strategic documents from relevant sectors that might fall within the scope of the Protocol.

##### *Sectors:*

##### ***Environment***

*National Environmental Action Programme of Georgia 2012 – 2016* was approved by the Resolution of the Government №127 of 24 January 2012 (NEAP-2). Long-term goals, short-term targets and respective activities are presented in NEAP-2 for eleven themes. Each

thematic chapter in this document clarifies the environmental problems and causes, stakeholders, the actions taken to-date, national and international developments and an assessment of the regulatory framework. Each chapter concludes with a table of activities that clearly states what actions will be undertaken, who will take those actions and what the estimated costs are. Potential sources of financing and indicators of success are also listed. NEAP-2 also presents several cross-cutting issues, such as environmental impact assessment and permitting, enforcement, environmental education and public awareness, monitoring, the scientific basis for decision-making and the need for geo-informational systems. NEAP-2 concludes with an explanation of the importance of policy coordination within the national government and between the national and the municipal levels.<sup>8</sup>

### ***Energy***

*The State Programme "Renewable Energy 2008" – regulation for construction of new renewable energy sources in Georgia<sup>9</sup>* was adopted by the resolution of the Government №107 of April 18, 2008. According to the resolution, the national programme “Renewable Energy 2008” - regulation on construction of new renewable energy sources in Georgia (hereinafter “regulation” or “programme”) aims at “supporting construction of new renewable energy sources in Georgia through attraction of investments”. It was used as legal base for initiation of construction of various hydro power plants in Georgia.

*Sustainable Energy Action Plan – City of Tbilisi -for 2001-2020 (SEAP)* was approved by the Decision of the Government of Tbilisi City № 07.10.237 of 28 March 2011. In June 5, 2009 the Tbilisi City Council adopted a Strategic Plan for Future Development of the Capital City (thereafter called the Strategic Plan of Tbilisi). The SEAP and elaborated strategy for reduction of greenhouse gas emissions (GHGs) sources on the territory of the city fully incorporate the priorities identified in the Strategic Plan of Tbilisi. Among these priorities are: the development of the transport sector (chapter VIII), improvement of electricity (chapter IX, article 15) and heating (chapter IX, articles 17&18) supply in the city, development of other infrastructure such as water supply (chapter IX, article 11) and municipal sewage system (chapter IX, article 12). The chapter on Landscape Environment and Development (chapter VII) focuses on the development of green spaces that will result in an increased number of sources or absorbing CO<sub>2</sub> emissions in the city territory. Though the Strategic Plan of Tbilisi has no list of concrete actions that will support the growth of CO<sub>2</sub>

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<sup>8</sup> [http://moe.gov.ge/files/Saministros%20Prioritetebi/NEAP\\_eng\\_2012.pdf](http://moe.gov.ge/files/Saministros%20Prioritetebi/NEAP_eng_2012.pdf)

<sup>9</sup> Number of changes have been made to the Programme since its adoption

emissions absorption sources, it does provide a general vision that is translated into concrete activities under the SEAP.

### ***Agriculture***

*The Agriculture Development Strategy of Georgia for the period 2012-2022* was adopted by the resolution of the Government of Georgia N566 of 28 March of 2012. Later on, in December 2012, the Agriculture Action Plan of Georgia has been approved. A primary objective of the Agriculture Development Strategy is the development of agriculture through strengthening of the small household farms and forming of profitable production chains. The main goals of the Strategy are enhancing competitiveness of entrepreneurs and farmers; institutional development of the sector; development of the value chain; development of the regional and agriculture infrastructure and ensuing food security.

### ***Forestry***

The National Forest Policy Document was approved by the Parliament of Georgia on December, 11 2013. The goal of the National Forest Policy is to establish a system of sustainable forest management which will ensure: improvement of quantitative and qualitative characteristics of the Georgian forests, protection of biological diversity, effective use of the economic potential of forests taking into account their ecological values, public participation in forest management related issues and fair distribution of derived benefits.

### ***Regional development***

In accordance with Regional Development strategy document 2010-2017, in 2012 Georgian government approved Mtskheta-Mtianeti and Imereti regional development strategies for 2012-2017. In 2013 Georgian government developed and approved Guria, Samegrelo-Zemo Svaneti, Racha-Lechkhumi and Qvemo Svaneti , Samtskhe-Javakheti, Shida Kartli, Kvemo Kartli and Kakheti regional development strategies for 2014-2021<sup>10</sup>. Financial support in this matter was provided by World Bank, UNDP, GTZ and other international donors.

In compliance with Georgian government document “The Country’s Basic Data and Trends 2014-2017” , regional development projects from 2014 will be implemented on the basis of regional strategy. The following priorities have been identified:

- Development and implementation of uniform government policy regarding development, design and scientific and technical progress of the network of national and international roads;

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<sup>10</sup> <http://www.mrdi.gov.ge/en/news/rdevelopment>

- Implementation of the arrangements on introduction and development of water supply systems for Georgian population;
- Development and planning the policy of arranging landfills in self-governing units (except Tbilisi and Ajara Autonomous Republic);
- Monitoring of disaster caused damages the regions.

For example, Mtskheta-Mtianeti regional development strategy 2012-2017 was approved under Georgian government resolution №1687 of 5 September 2012. It was based on p. “s” of article 5 of the Law of Georgia on “The Structure, Authority and Work Order of Georgian Government” and Attachment 2 (technical and administrative provisions) to 14 November 2011 Financing Agreement between the EU and Georgian government (“Support to regional development reform in Georgia).

Mtskheta-Mtianeti development strategy 2012-2017 reflects opportunities and the potential for economic and social development of the region and contains the list of specific projects to be implemented there. The latter includes stage by stage rehabilitation of Mtskheta-Stefantsminda-Larsi highway until the end of 2013.

The rehabilitation works design for Gudauri-Kobi segment of Mtskheta-Stefantsminda-Larsi highway complies with Georgia’s regional development strategy 2010-2017, where the development of the transport system is considered a necessary condition for the development of regional infrastructure. In 2013 department of highways of the Ministry for Regional Development and Infrastructure carried out rehabilitation of Kobi-Gudauri 12 km segment of Mtskheta-Stefantsminda-Larsi international highway (96th-107th km). The work included asphalt-concrete pavement and rehabilitation of 3 tunnels.<sup>11</sup>

### **Town and country planning or land use**

Urban development master plans currently exist only in a few cities but will eventually be produced in other cities and settlements. Land-use master plans exist for Tbilisi, Batumi, Zugdidi and Bakuriani.

The master plan of Tbilisi (general plan) was approved by the Decision № 6-17 of Tbilisi Council of 5 June 2009, on ratification of a general plan of prospective development of the capital city.

The master plan defines basic parameters of land use and development, aspects of protection of environment and cultural

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<sup>11</sup> See more: Monitoring report on the implementation EU - Georgia ENP Action Plan, 2013, Green Alternative - [http://greenalt.org/wp-content/uploads/2013/11/ENP\\_AP\\_Monitoring\\_2013.pdf](http://greenalt.org/wp-content/uploads/2013/11/ENP_AP_Monitoring_2013.pdf). Pages 12-14.

heritage, transportation, engineering and social infrastructure, economic development and other issues<sup>12</sup>.

### **Other national relevant documents**

*The Socio-Economic Development Strategy of Georgia 'Georgia 2020'* was approved by the Resolution of the Government № 400 of 17 June 2014. According to the Ordinance “under Article 34(4) of the Budgetary Code of Georgia, Ministries of Georgia, Offices of State Ministers of Georgia and appropriate subordinate agencies of the Government of Georgia shall be tasked with producing medium term action plans before 30 June of each year according to the strategy”<sup>13</sup>.

## **V. Description of current environmental assessment provisions**

V.1. The national environmental legislation of Georgia relevant to the SEA and EIA systems is comprised of the Constitution of Georgia, International treaties of Georgia, laws of Georgia and other regulations (under-law normative acts) such as Presidential Orders, Governmental Decrees and Ministerial Orders.

The EIA system in Georgia is similar to the OVOS/Expertise system found in several countries in Eastern Europe, the Caucasus and Central Asia<sup>14</sup>. More details on OVOS/Expertise systems and possible systemic inconsistency between the Espoo Convention and environmental assessment within the framework such systems as well as recommendations to support countries in further developing their legislation in compliance with the Convention could be found in the General guidance on enhancing consistency between the Convention and environmental impact assessment within State ecological expertise in countries of Eastern Europe, the Caucasus and Central Asia (ECE/MP.EIA/2014/2), adopted at the Sixth session of the Meeting of the Parties to the Convention on Environmental Impact Assessment in a Transboundary Context (June 2014).

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<sup>12</sup> See more: GEO-city Tbilisi: An Integrated Environmental Assessment of State and Trends for Georgia’s Capital City, 2011

<sup>13</sup> This medium-term planning is based on the Medium-Term Expenditure Framework (MTEF) process, which was imported into Georgia as a best practice in the fiscal sphere. The idea of MTEF is to increase efficiency and transparency and provide for more coherent and result-oriented policies. For this, the planning process needs to be firmly systematized and internalized. Ministries are to provide not only their priorities and amount of funds requested. They are expected to also include the needs assessment and justification for their actions and priorities as well as expected outcomes and criteria for judging success and effectiveness.

The Medium-Term Expenditure Framework is not a specific environmental strategy or policy. It represents the only broad government-approved framework with an incorporated budget that includes the operations of the Ministries thus providing a link between strategic direction and the State budget.

<sup>14</sup> [http://www.unece.org/fileadmin/DAM/env/documents/2014/EIA/MOP/ECE.MP.EIA.2014.2\\_e.pdf](http://www.unece.org/fileadmin/DAM/env/documents/2014/EIA/MOP/ECE.MP.EIA.2014.2_e.pdf)

The Guidance uses the term “OVOS”, an acronym whose terms, in direct translation from Russian, can be rendered as “assessment of the impact upon the environment”. The OVOS is the procedure during which the proponent/developer (i.e., the applicant for the authorization) collects all the necessary information concerning the impact of the project on the environment and compiles the relevant impact assessment documentation. The OVOS procedure is not of a permitting nature and is closely connected to the developing of the overall project documentation: the proponent/developer or the consultant hired by the proponent/developer conducts the necessary investigation and studies and prepares draft OVOS materials.

The OVOS procedure, despite its name, should be distinguished from what is generally internationally understood as an environmental impact assessment (EIA) procedure. The two terms are not exactly synonymous because they reflect slightly different practices. Both have similar objectives, but they have some different features that are important from the point of view of the Espoo Convention.

For the purpose of this Report to distinguish the national procedure of assessment of the impact upon the environment which is conducted by developer from the EIA as it is generally internationally understood, hereinafter the term EIA/OVOS is used.

The main legal acts related to the environmental assessment system in Georgia are the following:

- The Law of Georgia on Environment Protection (1996)
- The Law of Georgia on Licenses and Permits (2005)
- The Law of Georgia on Environmental Impact Permits (2007)
- The Law of Georgia on Ecological Expertise (2007)

There are also several regulations related to the environmental assessment system adopted to implement the provisions of the laws, such as:

- Order № 28 of May 14, 2013 of the Minister of Environment and Natural Resources Protection of Georgia on Approval of the Regulation on Procedures of Ecological Expertise;
- Order № 31 of May 15, 2013 of the Minister of Environment and Natural Resources Protection of Georgia on Approval of the Environmental Impact Assessment Regulation;
- Order № 38 of Jun 3, 2013 of the Minister of Environment and Natural Resources Protection of Georgia on Approval of Modus Operandi of the Special Council of Environmental Impact.

*The Law on Environmental Protection (1996)* establishes the general legal framework for comprehensive environmental protection and

management of natural resources. Article 5 of the Law sets forth basic principles of environmental protection (based on the Rio Declaration principles) and states that they shall be applied in the course of planning and implementing any activity. Under Article 35 of the Law certain activities can only be permitted to take place in accordance with an environmental impact permit, in order to take into consideration ecological, social and economic interests of the public and the state and to protect human health, natural surroundings, material assets and cultural heritage. Article 37 of the Law establishes the general requirements with regard to environmental assessment in Georgia. Also, according to the Article 15 of the Law the system of planning of environmental protection is designated in order to protect the environment and ensure sustainable development.

*The Law on Licenses and Permits (2005)* defines the comprehensive general list of categories of licenses and permits, and sets up the general rules for the issuance, amendment and termination of licenses and permits.

*The Law on Environmental Impact Permits (2007)* establishes those activities subject to mandatory ecological expertise through an exhaustive list of activities, included in Article 4 of the law, and sets forth the requirements for issuing environmental impact permits and for conducting ecological expertise, including requirements for public participation. This law defines the environmental impact permit as a permanent authorization to commence a particular activity, issued to a developer pursuant to the applicable legal requirements.

An Environmental Impact Permit is granted for an indefinite term by the Ministry of Environment and Natural Resources Protection of Georgia pursuant to the rules and procedures set forth under the laws of Georgia. Any natural person, legal entity, or other organizational unit prescribed under law (which is not a legal entity), who plans to engage in the activities that are subject to mandatory ecological expertise, must apply to the Ministry and obtain the Environmental Impact Permit to perform such activities.

Where a construction permit is required for the activities subject to the mandatory ecological expertise, the permit seeker applies to the public authority responsible for issuing the construction permit and this public authority must involve the Ministry of Environment and Natural Resources Protection and ecological expertise must be conducted. The conclusion of ecological expertise and its conditions shall be permit conditions.

In particular, the activities subject to the mandatory ecological expertise (and therefore EIA/OVOS) are as follows:

- a. The processing of minerals (the processing of construction (including inert) materials, except for those envisaged under clause "c", are not subject to ecological expertise);
- b. Any manufacturing technology, which uses asbestos;
- c. The production of cement, asphalt, lime, plaster and brick;
- d. The manufacturing of glass and glass products;
- e. The recycling of solid domestic waste (including the waste incineration plants) and/or the arrangement of landfills;
- f. The disposal of toxic and other hazardous waste and its burial, and/or the recycling of this waste, decontamination;
- g. The production of any capacity related to coal gasification, dilution, briquetting and coking;
- h. The installation of main oil and gas pipelines;
- i. The arrangement of storages and terminals for oil and oil products, as well as liquid and natural gas. The volume of one of the tanks located on the territory of these storages and terminals, or the total volume of these tanks, should exceed 1,000 cubic meters;
- j. The construction of international and national roadways, railways and bridges located thereon, and underway crossings, as well as the buildings for the engineering protection of these highways, railroads and their territories;
- k. The installation of high-voltage (35 kV or more) air and cable transmission lines and substations (110 kV and more);
- l. The arrangement of a hydro-electric power station (2 MW or more) and a thermal power plant (10 MW and more);
- m. The construction of an underground railway;
- n. The arrangement of a water reservoir (10,000 cubic meters and more);
- o. The arrangement of a wastewater treatment facility (with volume of 1,000 cubic meters or more per 24 hours) and the main sewage collector;
- p. The arrangement of an aerodrome, airport, railway station and a sea port;
- q. The arrangement of a dam, harbour, pier, breakwater and shaft;
- r. Chemical industry, namely: the chemical processing of intermediate products and the production of chemical substances; the manufacturing and processing of pesticides, mineral fertilizers, chemical dye, polish, peroxides and elastic material (rubber or plastic materials); the production of gunpowder and other explosives; the production of accumulators; the manufacturing of graphite electrodes;

- s. Oil and gas refineries (500 tons or more per 24 hours);
- t. Any metallurgical production (with the capacity of more than a ton per hour), except for the cold processing of metals and jewellery production;
- u. The storage of toxic and other hazardous substances.

Any construction related to the above Activities or any modification of manufacturing technology which changes the terms of use of the technology is also subject to ecological expertise.

The list of activities subject to EIA/OVOS and expertise under Georgian legislation does not conform with the list of activities in Annex I and II to the Protocol on SEA. The list of activities that mandatorily requires EIA/OVOS and expertise under the Georgian legislation is also incompliant with the list of activities defined under the EU EIA and SEA directives. Many activities with significant potential adverse impacts on the environment (construction of radiation or nuclear facilities for instance) do not require EIA/OVOS and ecological expertise under the present legislation.

In the mid-2000s Georgian law and policy underwent a substantial restructuring aimed at increasing investment and eliminating corruption. The current Law on Environmental Impact Permits came into force during this period, in 2005. As EIA was considered to be an obstacle to investment, the 2005 amendments substantially weakened the country's first EIA legislation. Georgia introduced a system of investment permitting called the "one window" approach, streamlining the permitting process and cutting down the number of authorities that permit applicants need to deal with. It also reduced the list of activities subject to EIA/OVOS and ecological expertise, shortened the timeframes for permitting, and constrained public participation rights and procedures.<sup>15</sup>

In fact the Environmental Impact Permit serves not only as the permitting decision resulted from EIA/OVOS and expertise but also as a pollution permit.

It should be also noted that Georgian legislation envisages the possibility of exempting from EIA/OVOS and ecological expertise if "because of common state interests it is necessary to begin the activity and to take a decision duly" (article 11 of the Law of Georgia on Environmental Impact Permit). The law does not explain what this provision mean or what particular conditions should exist to prove the existence of common state interests. This important shortcoming of the

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<sup>15</sup> More detailed analysis of the EIA system in relation to planned activities please see in the Review of legislation on environmental impact assessment of Georgia with regard to implementation of the Espoo Convention. - [http://www.unece.org/fileadmin/DAM/env/eia/documents/EaP\\_GREEN/2\\_results\\_comp\\_1/Espoo\\_Review\\_Georgia\\_FINAL\\_January2014.pdf](http://www.unece.org/fileadmin/DAM/env/eia/documents/EaP_GREEN/2_results_comp_1/Espoo_Review_Georgia_FINAL_January2014.pdf)

law has not been improved so far that enables the The Ministry of Environment and Natural Resources Protection and other interested companies, to bypass legal requirements and do not carry out environmental impact assessment of planned projects.<sup>16</sup>

*The Law of Georgia on Ecological Expertise* (2007) sets the procedure of ecological expertise and makes ecological expertise an obligatory step in the process of issuance of the Environmental Impact Permits or Construction Permits (if the construction is planned for the activity that requires ecological examination). The objective of an ecological expertise is to ensure ecological balance with consideration of the principles of the conservancy and sustainable development. The law on ecological expertise also identifies the basic principles of the ecological examination in Georgia.

The Ministry of Environment and Natural Resources Protection of Georgia Ecological is responsible for conducting of ecological expertise. The positive conclusion (and conditions) of the ecological expertise is a mandatory requirement for obtaining of the Environmental Impact Permit or a Construction Permit for activity that requires ecological expertise. The conclusion of ecological expertise is an integral part of the Permit for the Impact on Environment and Construction Permit (In case if the Construction Permit is issued for an activity listed in the article 4 of the Law on Environmental Impact Permit) and the conditions indicated in the conclusion of ecological expertise are the permitting conditions obligatory for the owner of permit.

**Before reform of Licensing and Permitting system of Georgia (in 2005-2007) the following plans and programs were subject to environmental assessment and public participation procedures:** urbanization and spatial planning programs; industry development programs; transport infrastructure development programs; land use schemes for administrative-territorial units (districts); long-term rehabilitation programs for protected areas; plans on the protection and use of water, forest, land, minerals and other natural resources; national, regional and local construction programs for the location of engineering facilities of all types designed to avoid negative consequences of possible natural disasters. According to the Law on Environmental Permit (1997), it was obligatory to conduct EIA/OVOS and to make decisions on issuing environmental permits through public participation before such plans and programs were adopted, approved or endorsed by the legislative or executive bodies. **As a result of legislative reform such plans and programs are no more subject to the above mentioned procedures.**

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<sup>16</sup> See Report “Energy Projects and Corruption in Georgia”. Green Alternative, 2013, page.22-23. - [http://greenalt.org/wp-content/uploads/2013/12/Energy\\_Projects\\_and\\_Corruption\\_in\\_Georgia.pdf](http://greenalt.org/wp-content/uploads/2013/12/Energy_Projects_and_Corruption_in_Georgia.pdf)

At present there are several laws in Georgia regulating issues related to the plans and programmes and there are legislation on EIA/OVOS and ecological expertise procedures too but the development and approval of plans and programmes are no more subject to EIA/OVOS, ecological expertise and environmental permitting. There are several sectoral laws identifying the rights and responsibilities of the government and municipalities in the field of planning **but the Georgian legislation does not provide for the procedures for developing and adopting national, regional and/or sectoral strategies, plans and programmes. Georgia has no particular legislation on Strategic Environmental Assessment and there is no legislation to regulate the planning procedures in general.**

V.2. *Analysis of current environmental assessment provisions.* Presently, Georgian legislation does not envisage Strategic Environmental Assessment while developing various plans, programs and policies. Respectively, public participation in this process is not regulated either.

Requirements under the Protocol on SEA:	Reference to relevant requirements under current environmental assessment system	no/ to some extent/ fully
Undertake SEA in plan- and programme-making processes in accordance with definition of SEA in article 2.6 of the Protocol (e.g., how to link SEA to the decisionmaking process, etc.)		No
Undertake SEA screening in accordance with articles 4 and 5 (e.g., how to combine mandatory and exclusions lists and when to apply case-by-case examinations, etc.)	*** See below	No
Organize SEA scoping in accordance with article 6 (e.g., when to undertake scoping, how to select suitable methods for consultations with public and authorities, how to write terms of reference for SEA, etc.)		No
Prepare environmental report:		
<ul style="list-style-type: none"> <li>• Elaborate environmental (baseline) studies in SEA (in accordance with annex IV, paras. 2, 3 and 4</li> </ul>		No
<ul style="list-style-type: none"> <li>• Use environmental objectives in SEA (in accordance with annex IV, para. 5)</li> </ul>		No
<ul style="list-style-type: none"> <li>• Analyse the likely significant environmental, including health, effects (in accordance with annex IV, para. 6)</li> </ul>		No

Requirements under the Protocol on SEA:	Reference to relevant requirements under current environmental assessment system	no/ to some extent/ fully
<ul style="list-style-type: none"> <li>Compare alternatives of the plan or programme (in accordance with annex IV, para. 8)</li> </ul>		No
<ul style="list-style-type: none"> <li>Prepare post-SEA monitoring plans to meet requirements of article 12 and annex IV, paragraph 9</li> </ul>		No
<ul style="list-style-type: none"> <li>Analyse transboundary effects (in accordance with annex IV, para. 10)</li> </ul>		No
Organize public review of the SEA report in accordance with article 8 (e.g., how to identify the public concerned; how to inform the public and collect feedback, how to review public comments, etc.)		No
Organize consultations with environmental and health authorities in accordance with article 9 (e.g., how to identify relevant authorities, how to effectively consult them during SEA, etc.)		No
Undertake transboundary consultations in accordance with article 10 (e.g., when to notify, what level of document should be exchanged, how to organize effective transboundary consultations)		No
Take environmental report and comments from authorities and the public into account during the adoption of the plan or programme into account (art. 11)		No
Monitor significant environmental and health effects during implementation of plans and programmes (art. 12)		No

*\*\*\* According to the Article 4 of the Protocol strategic environmental assessment shall be carried out for plans and programmes which are prepared for agriculture, forestry, fisheries, energy, industry including mining, transport, regional development, waste management, water management, telecommunications, tourism, town and country planning or land use, and which set the framework for future development consent for projects listed in annex I and any other project listed in annex II to the Protocol that requires an environmental impact assessment under national legislation. In this context it should be noted that the list of activities subject to EIA/OVOS and ecological expertise under Georgian legislation does not conform with the list of activities in Annex I and II to the Protocol. The list of activities that mandatorily requires EIA/OVOS and*

*ecological expertise under the Georgian legislation in also incompliant with the list of activities defined under the EU EIA and SEA directives. (See more in Paragraph V.1)*

V. 3. *Possible future changes in the legal framework.* There are some drafts laws exist that may impact on the regime of environmental assessment in force. However, it is not enough information whether and when their adoption should be expected.

- Draft Law on Environmental Assessment System

This draft law was prepared in 2005-2006 by Caucasus Environmental NGO Network (CENN) under technical support of Dutch EIA Commission and financial support of BNPP. This draft incorporates provisions for both EIA and SEA procedures.

- Draft of The Spatial Planning and Construction Activities Code of Georgia

In order to improve regulatory legislation for construction activities, draft of “Spatial Planning and Construction Activities Code” has been developed. It aims to resolve issues concerning spatial planning and construction activities on the territory of Georgia on the basis of internationally recognized, unified principles and regulations.

The Draft of Spatial Planning and Construction Activities Code of Georgia stipulates:

- a) The spatial arrangement and urban planning system, its basic principles and objectives;
- b) The spatial arrangement and urban plans hierarchy and content, their development and approval procedures;
- c) The basic requirements for the use of land for construction, building materials quality etc;
- d) The rules for issuance of Construction Permits, supervision on construction and commissioning of the buildings.

The draft of the Code, which was provided at the time of current review, contained references to EIA and SEA procedures as well as defined the list of the plans that require SEA.

The draft of the code has been elaborated by local and international experts as the result of cooperation between the Ministry of Economy and Sustainable Development of Georgia and German Society for International Cooperation (GIZ).

The Code is expected to be adopted by the end of 2014.

- Draft law on Amendments of the Law of Georgia on Environmental Protection

This draft law is the part of legislative pack related to the new draft law on Management of Water Resources. As per this draft law it is planned to reformulate articles 35 and 37 of the Law of Georgia on Environmental Protection.

An article 35 shall provide definition of the “Integrated Environmental Permit” that is new type of permit for Georgia. As per article 37 of the draft law, to undertake the environmental assessment procedure before issuance of Integrated Environmental Permit is indicated as the mandatory requirement. As per Draft law on Amendments of the Law of Georgia on Environmental Protection there is also proposed to add article 38 (on Strategic Environmental Assessment) to the law of Georgia on Environmental Protection. This article of the draft law contains definition of the Strategic Environmental Assessment and basic information on applicability of this procedure.

- Draft law On Amendments to the Law of Georgia on the Permits for the Impact on Environment

According to this draft law there are planned various amendments to the existing law including, inter alia:

- a) New requirements on non-technical resume;
- b) Adding to the list of activities (that require EIA/OVOS and ecological expertise) waste recovery, waste disposal, pre-processing of hazardous waste and arrangement of the hazardous waste temporary storage units;
- c) Amendments of article 22 related to the ecological audit.

## **VI. Key stakeholders in SEA reforms**

VI.1. Some of the acts issued by the Government of Georgia on the basis of law (subsidiary legislation) are directly related to the development and adoption of various plans, programmes and strategy documents with likely environmental, including health effects. According to the Law of Georgia on the Structure, Powers and Order of Activity of the Government of Georgia the Government among other competences:

- Approves state target-oriented programs and ensures their implementation in social-economic, cultural and other spheres;
- Carries out government initiatives and elaborates a government program;
- Develops and implements state poverty reduction and elimination programs;
- Implements a uniform national policy for protection of environment and natural resources and for the ecological safety of the population.

### *Ministries of Georgia*

There are 16 Ministries in Georgia at the time of drafting of the present review:

- 1) Ministry of Education and Science of Georgia;
- 2) Ministry of Environment and Natural Resources Protection of Georgia;
- 3) Ministry of Economy and Sustainable Development of Georgia;
- 4) Ministry of Energy of Georgia;
- 5) Ministry of Defence of Georgia;
- 6) Ministry of Justice of Georgia;
- 7) Ministry of Culture and Monument Protection of Georgia;
- 8) Ministry of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees of Georgia;
- 9) Ministry of Foreign Affairs of Georgia;
- 10) Ministry of Internal Affairs of Georgia;
- 11) Ministry of Agriculture of Georgia;
- 12) Ministry of Finance of Georgia;
- 13) Ministry of Labour, Health and Social Affairs of Georgia;
- 14) Ministry of Corrections of Georgia;
- 15) Ministry of Regional Development and Infrastructure of Georgia;
- 16) Ministry of Sport and Youth Affairs of Georgia;

All Ministries of Georgia are more or less (within their competence) involved in the drafting, adoption or implementation of different types of strategy documents plans and programmes. But the following Ministries have more competence in developing strategy documents, plans and programmes with likely environmental, including health effects:

#### **The ministry responsible for environmental matters:**

*The Ministry of Environment and Natural Resources Protection of Georgia.*

*The Ministry of Environment and Natural Resources Protection regulates activities related to the protection of environment and natural resources in Georgia. The Ministry of Environment and Natural Resources Protection is the main authority responsible for governing and implementing decisions on environmental policy and*

management. Including inter alia it is responsible for preparation of National Environmental Action Programme and other state programmes in the field of environment.

**The ministry responsible for economy and development:**

*Ministry of Economy and Sustainable Development of Georgia*

Ministry of Economy and Sustainable Development of Georgia has the wide-range of functions related to the development of policies, plans and programmes involving, inter alia: spatial planning, land use planning, urban and infrastructure development planning, the settlement system and regional planning, development of state policies and programmes on support of investments and innovations etc.

Technical and Construction Supervision Agency (former Technical and Construction Inspection) is the legal person of the public law, part of system of the Ministry of Economy and Sustainable Development of Georgia that is responsible (as per Code on Safety and Free Turnover of Products of May 8, 2012) for issuance of the Permit for Construction of Facilities of Special Importance and of the Permit for Construction of Radiation Or Nuclear Facilities.

**The ministry responsible for energy:**

*Ministry of Energy of Georgia*

The Ministry of Energy of Georgia is responsible for the implementation of the state policy and programmes in the field of energy. Including, inter alia, the *Ministry of Energy of Georgia* is responsible to support development of various plans and programmes.

**The ministry responsible for health matters:**

*Ministry of Labour, Health and Social Affairs of Georgia*

Ministry of Labour, Health and Social Affairs of Georgia implements state governance and state policy in the fields of labour, health and social affairs. The mission of this ministry is to promote the population's good health and functional capacity, promote healthy working and living environments, ensure that there are sufficient social and health services. Inter alia this ministry is responsible for the development and implementation (as well as for coordination of activities) of the state policy and programmes in the field of Labour, Health and Social Affairs.

**The ministry responsible for agriculture:**

*Ministry of Agriculture of Georgia*

Ministry of Agriculture of Georgia is in charge of regulation of economic activity in the agricultural sector of the country with a purpose of increasing the sector's production capacity. Inter alia, the Ministry of Agriculture of Georgia is responsible for the development and implementation (as well as for coordination of activities) of the state policy and programmes in the field of Agriculture.

**The ministry responsible for regional development and infrastructure:**

*Ministry of Regional Development and Infrastructure of Georgia*

The Ministry of Regional Development and Infrastructure of Georgia is in charge of:

- Regional development policy, introduction of water supply systems, development of integrated state policy on development and designing of networks of secondary and international roads and scientific-technical progress fall under the field of management of this ministry;
- Development, coordination of implementation after approval and monitoring over the draft basic directions of the state policy, concepts and state programmes on the issues of development of the fields and sectors that fall under this ministry;
- Elaboration of the regional socio-economic development plans and programmes and coordination of their implementation

**Other relevant public authorities**

*Georgian National Energy and Water Supply Regulatory Commission*

Georgian National Energy and Water Supply Regulatory Commission was established on the base of Georgian Law on Electricity and Natural Gas. The status of the Commission is defined by Law of Georgia on Independent National Regulatory Authorities and represents a legal entity of public law with special legal capacity to regulate energy sector of Georgia. The Commission is independent from the State Authorities, departments and organizations. The Commission is not based on the State Budget Georgian National Energy and Water Supply Regulatory Commission has a wide range of functions related to establishment rules and conditions in the energy and water supply sectors as well as to granting modifying and revoking licenses in the electricity, natural gas and water supply sectors/.

*Municipalities*

Within the competence of municipality is to ensure development, approval and implementation appropriate programmes, strategies, action plans and projects.

VI.2. Among others key stakeholders the NGOs and their networks should be mentioned as those that play important role in development of environmental assessment system in Georgia<sup>17</sup>.

## **VII. Past, ongoing and planned initiatives to build SEA capacity in the country**

VII.1. The legislative and institutional review on application of EIA to projects was carried out at the request of Georgia by consultants to the secretariat of the Espoo Convention in 2013 (completed in January 2014)<sup>18</sup>. The review indicated several gaps in the legislation of Georgia and suggested to address them through amending the current legislation or drafting a new law on EIA.

In January 2014, Georgia informed the secretariat, that as a follow-up action to the legislative review, it intended to develop a new law on EIA, with a view to acceding to the Convention. In March 2014, Georgia informed the secretariat that its envisions that the Law on EIA will also incorporate provisions on SEA in accordance with the Protocol on SEA. The request was reflected in the workplan under the two treaties for 2014-2017. The funding is provided through the European Union (EU)-funded Greening Economies in the Eastern Neighbourhood (EaP GREEN) Programme, which extends until 2016.

VII.2. There has been also number of other different activities related to the environmental assessment and particularly SEA in the past, among them:

- In 2004 the Country Review: Capacity Building Needs Assessment for the Implementation of the UNECE Strategic Environmental Assessment Protocol (Georgia) was elaborated. Elaboration of this document has been supported by the UNDP, the REC (implementing agency) and UNECE within a project “SEA Promotion and Capacity Development” sponsored within the framework of the Environment and Security Initiative by UNDP and CIDA. In 2006 within the same project the “Guide to Strategic Environmental Assessment. Georgian Perspective” was prepared.<sup>19</sup>

- Caucasian Environmental NGO Network (CENN), together with the Netherlands Commission for EIA, implemented the project Study of

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<sup>17</sup> For example, Association Green Alternative (<http://greenalt.org/>) and Caucasus Environmental NGO Network (CENN, <http://w3.cenn.org/wssl/index.php?id=78>) produced number of publications and reports as well as have been involved in educational, law-drafting and other activities related to SEA.

<sup>18</sup> [http://www.unece.org/fileadmin/DAM/env/eia/documents/EaP\\_GREEN/2\\_results\\_comp\\_1/Espoo\\_Review\\_Georgia\\_FINAL\\_January2014.pdf](http://www.unece.org/fileadmin/DAM/env/eia/documents/EaP_GREEN/2_results_comp_1/Espoo_Review_Georgia_FINAL_January2014.pdf)

<sup>19</sup> [http://www.unece.org/env/sea/ecca\\_capacity.html#Note1](http://www.unece.org/env/sea/ecca_capacity.html#Note1)

the EIA System Effectiveness in the South Caucasian Countries, financed by the Netherlands government. The Draft Law on Environmental Assessment System was one of the project outcomes (see also p.V.3)

- In 2012-2013 the Netherland Commission for Environmental Assessment (NCEA) implemented the Project “Support of EIA, Permitting and Inspection for the Georgian Ministry of Environment Protection”. The purpose of the project “Support of EIA, Permitting and Inspection for the Georgian Ministry of Environment Protection” is to increase the capacity and institutional strengthening of the Department of Ecological Expertise and Inspection of the Ministry of Environment Protection of Georgia. It consisted of 3 major components:

1. Improvement of EIA system;
2. Improvement of environmental permitting procedures;
3. Improvement of environmental inspection performance.<sup>20</sup>

- Other national activities by NCEA and REC Caucasus (e.g. SEA of Waste Law, SEA for power sector, Manual on Landfill Site Assessment and Selection).

- ADB is providing ongoing technical assistance to Georgia, through TA 7548-REG: Improving the Implementation of Environmental Safeguards in Central and West Asia (2013-2014). To date the activities of this regional capacity development technical assistance have focused on providing training to the staff of the executing agencies, their consultants and contractors for improving environmental safeguard performance of ADB-funded projects<sup>21</sup>.

A Country Assessment of Environmental Safeguard Capacity (CAESC) was undertaken to respond to the Government’ request for ADB’s assistance for capacity building for environmental safeguard compliance. The expected outcome is strengthened national capacity in effective implementation of environmental safeguards for infrastructure investments. The expected outputs are: (1) a country assessment of environmental safeguards capacity, and (2) a capacity development plan for environmental safeguards. The capacity development plan will outline a future program of interventions for strengthening of environmental safeguard capacity.

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<sup>20</sup> [http://moe.gov.ge/index.php?sec\\_id=119&lang\\_id=ENG&project\\_id=17](http://moe.gov.ge/index.php?sec_id=119&lang_id=ENG&project_id=17)

<sup>21</sup> ADB’s environmental safeguards aim to ensure the environmental soundness and sustainability of projects, and to support the integration of environmental considerations into the project decision-making process. The Safeguard Policy Statement (SPS) requires borrowers to identify project impacts and assess their significance; examine alternatives; and prepare, implement, and monitor environmental management plans. The SPS requires borrowers to consult people likely to be affected by the project and disclose relevant information in a timely manner and in a form and in languages understandable to those being consulted. Assessment reports are required depending on the project’s impact. See more - [www.adb.org/site/safeguards/environment](http://www.adb.org/site/safeguards/environment)

The overall objective of the CAESC is to help further strengthen the national capacity in effective implementation of environmental management for infrastructure investments. This will be achieved by providing an assessment of the national environmental safeguard systems and capacity, promoting country ownership of environmental safeguard compliance, narrowing the gaps and achieving better compliance with environmental safeguard requirements of both ADB and the Government. The assessment will result in an action plan for long-term gap filling measures and capacity building programs.

## VIII. Recommendations for the most effective focus of the SEA technical assistance

In order to ratify and implement the Protocol on SEA as well as to approximate the legislation to the EU EIA and SEA Directives it is recommended:

- To prioritize and determine the types of the strategic documents that should be covered by the suggested SEA legislation;
- To develop and adopt one new law on environmental assessment that shall cover both EIA and SEA procedures. As the starting point for the drafting the Draft Law on Environmental Assessment System prepared in 2006 by CENN could be taken. *(This option has been chosen at the consultations with the stakeholders during the round-table on August 25-26, 2014. Several options were proposed such as: 1) to draft a brand new law; 2) amend current legislation 3) to use existing draft law elaborated by CENN in 2006);*
- To ensure compliance with the requirements of the SEA Protocol, the Espoo and Aarhus Conventions, as well as to transpose at maximum the provisions of the EIA and SEA Directives;
- The law might also include the chapter on biodiversity assessment in order to support transposition of the requirements of the EU Habitat Directive;
- To elaborate the list of projects that require EIA based on Annex I and Annex II of the EIA Directive. For this purpose it is recommended to establish national technical group and organise consultations with the stakeholders;
- To elaborate the list of legislation (including legislation that regulate issuance of relevant licenses and permits and development of strategic documents) and make legislative changes needed in order to ensure references to relevant EIA and SEA requirements;
- To adopt additional measures and thus facilitate effective implementation of the introduced procedures, including:
  - development of SEA guidelines for public servants and other stakeholder groups;
  - implementation of pilot SEA procedures for different types of strategic documents.

## List of sources

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2. The Local Self-Government Code (2014)
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8. The Law of Georgia on the Permits for the Impact on Environment (2007)
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10. The Law on Fundamentals of Spatial Planning and Construction Development (2005)
11. The Government Resolution № 57 of March 24, 2009 on Construction Permit Issuance Procedure and Permit Terms
12. The State Programme "Renewable Energy 2008" adopted by the Government of Georgia (Decree of the Government of Georgia №107 of April 18, 2008)
13. Order № 28 of May 14, 2013 of the Minister of Environment and Natural Resources Protection of Georgia on Approval of the Regulation on Procedures of Ecological Expertise
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