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Green Economy in Eastern Partner Countries

The environmental compliance  
assurance system in  
**Georgia:**  
Current situation and recommendations

Action implemented by:



# **The environmental compliance assurance system in Georgia**

Current situation and recommendations

# Foreword

A well-functioning system of environmental compliance assurance has a multitude of societal and economic benefits. It protects public health and the environment, and helps countries implement environmental policies at lower overall costs. It promotes the rule of law and good governance, as well as the expansion of citizen engagement. Finally, it can boost investor confidence and stimulate the creation of new jobs.

This report takes stock of the state of the environmental compliance assurance system in Georgia, including its legal and institutional framework, monitoring, enforcement and compliance promotion activities. Based on this assessment, it identifies gaps and provides recommendations for improvement. The environmental compliance assurance system described in this report does not extend to mobile sources of pollution.

The report draws on significant work on environmental compliance assurance in the Eastern Europe, Caucasus and Central Asia region that the OECD carried out for a number of years. This includes notable work by the Environmental Action Programme (EAP) Task Force and the Greening Economies in the European Union's Eastern Neighbourhood (EaP GREEN) Programme. However, its scope does not comprise an assessment of the extent to which Georgia has implemented recommendations in previous OECD reports related to environmental compliance assurance. Nor does it thoroughly assess Georgia's implementation of its Association Agreement with the European Union.

The COVID-19 pandemic made gathering information for this report more difficult, with interviews taking place remotely.

This review was prepared in the framework of the European Union for Environment (EU4Environment) Action. Specifically, it addresses component 3.2 on Environmental Compliance Assurance and Liability Regimes, subcomponent 3.2.1 on "Strengthening of Compliance Assurance Systems, Instruments and Tools" and subcomponent 3.2.2 on "Reform of High Impact Enforcement and Compliance Instruments, including Environmental Liability".

EU4Environment aims to help the Eastern Partnership countries to preserve their natural capital and increase people's environmental well-being. To that end, it supports environment-related action; demonstrates and unlocks opportunities for greener growth; and sets mechanisms to better manage environmental risks and impacts. The Action is funded by the European Union and implemented by five Partner organisations: OECD, United Nations Economic Commission for Europe, United Nations Environment Programme, United Nations Industrial Development Organization and the World Bank based on a budget of some EUR 20 million. The Action implementation period is 2019-24.

The views expressed herein are those of the authors only and can in no way be taken to reflect the official opinion of the European Union, its members, the governments of the Eastern Partnership countries or the implementing partners.

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The report takes stock of the system of environmental compliance assurance in Georgia as of December 2022, identifies gaps and provides recommendations for improvement.

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The report was prepared based on desk research and secondary sources, including documents shared by stakeholders from Georgia; findings from a mission to Tbilisi in November 2019 for EU4Environment components 3.1 and 3.2; virtual interviews with stakeholders in October 2021 (listed below); and presentations by stakeholders from Georgia at various EU4Environment events. The OECD Secretariat presented and discussed the draft review with government stakeholders from Georgia during a virtual event on 28 April 2022, and revised the draft following their written comments. The pre-final report was presented and discussed at the third EU4Environment regional environmental compliance assurance seminar on "Better environmental inspections for stronger environmental resilience", which took place on 5-6 December 2022 in Brussels, Belgium, and finalised following additional written comments from the government of Georgia.

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# Abbreviations and acronyms

<b>BAT</b>	Best Available Techniques
<b>CITES</b>	Convention on International Trade in Endangered Species of Wild Fauna and Flora
<b>DEA</b>	Department of Environmental Assessment
<b>DES</b>	Department of Environmental Supervision
<b>EaP</b>	Eastern Partnership
<b>EIA</b>	Environmental Impact Assessment
<b>EIEC</b>	Environmental Information and Education Centre
<b>ELD</b>	Environmental Liability Directive
<b>ELV</b>	Emission Limit Value
<b>EMS</b>	Environmental Management System
<b>EU</b>	European Union
<b>EU4Environment</b>	European Union for Environment
<b>EUWI+</b>	European Union's Water Initiative Plus
<b>GDP</b>	Gross Domestic Product
<b>GEL</b>	Georgian Lari
<b>GIZ</b>	German Agency for International Co-operation
<b>GPS</b>	Global Positioning System
<b>IED</b>	Industrial Emissions Directive
<b>IMPEL</b>	European Union Network for the Implementation and Enforcement of Environmental Law

<b>IT</b>	Information Technology
<b>Ltd</b>	Limited company
<b>MEPA</b>	Ministry of Environmental Protection and Agriculture
<b>NEA</b>	National Environmental Agency
<b>NGO</b>	Non-Governmental Organisation
<b>OECD</b>	Organisation for Economic Co-operation and Development
<b>PM</b>	Particulate Matter
<b>PRTR</b>	Pollutant Release and Transfer Register
<b>RMG</b>	Rich Metals Group
<b>SEA</b>	Strategic Environmental Assessment
<b>UNDP</b>	United Nations Development Programme
<b>UNECE</b>	United Nations Economic Commission for Europe
<b>WHO</b>	World Health Organization

# Executive Summary

Georgia has developed a comprehensive environmental policy framework. Among other key documents, it includes the national programme for 2022-2026 and Georgia's 2030 Climate Change Strategy and Action Plan. In addition, the framework Law on Environmental Protection regulates environmental protection and the use of natural resources, and establishes the main environmental principles, and the rights and obligations of citizens in the field of environmental protection. Other laws govern environmental protection of specific environmental media and address specific issues, such as the Environmental Assessment Code. Georgia prioritises implementation of the Association Agreement with the European Union (EU), in accordance with which the country has adopted a Law on Environmental Liability and the Law on Industrial Emissions. Recently, the European Union recommended that Georgia be granted EU candidate status once it addresses several priorities, which is likely to encourage additional legal reforms.

These policy developments will help lower environmental pressures in Georgia, including high levels of pollution and lack of control over the use of its natural resources. The country's population is exposed to high levels of indoor and outdoor pollution, the quality of rivers is affected by untreated wastewater discharges and hazardous waste is inadequately treated. Georgia also experiences widespread illegal logging and pressures on ecosystems from mining, manufacturing, transport and agriculture. Besides ambitious policies and a robust legal framework, Georgia needs a strong environmental compliance assurance system to deal with its environmental challenges and ensure that its environmental policies have their desired effect. This report takes stock of Georgia's environmental compliance assurance system, identifying achievements and gaps, and recommending improvements.

## Key findings

### ***Legal and permitting framework***

- Georgia's environmental legislative framework is comprehensive. There has been progress on developing regulations for integrated permitting and the use of Best Available Techniques through the new Law on Industrial Emissions. Georgia has also recently adopted the Law on Environmental Liability (in 2021) and the Law on Environmental Impact Assessment (in 2017).
- Consultations on environmental laws take place through a variety of channels, and electronic sharing of environmental information with the public has improved.
- However, some pieces of legislation are not up-to-date and lack alignment and coherence in wording and definitions. Civil society is active in environmental policy development, but the private sector still lacks awareness about new laws.
- Internal information management for permit processing has improved at the Ministry of Environmental Protection and Agriculture (MEPA), and there are plans to establish an electronic licensing system for natural resources. However, there is no database of environmental permits that is shared among all MEPA agencies and departments, including the Department of Environmental Supervision (DES).

### ***Institutional framework for environmental compliance assurance***

- The institutional framework for environmental compliance assurance has been strengthened. In particular, the establishment of the DES of the MEPA in 2013 helped reinforce control activities in the area of environmental protection and natural resource use. It has clearly separated environmental policy making and control activities.
- The Department of Environmental Damage Remedial Measures has been established within the National Environmental Agency (NEA) of the MEPA to help implement the Law on Environmental Liability. Georgia's Environmental Information and Education Centre (EIEC) carries out important information provision, awareness-raising and capacity-building functions.
- Despite progress, there is a shortage of qualified staff in the compliance assurance institutions due to non-competitive remuneration and an absence of structured training programmes.
- Although several MEPA departments deal with different aspects of environmental compliance assurance, consultation and co-ordination are not always assured.
- The DES has been modernising its equipment in the last few years and has been digitising its information management systems, but it lacks field and laboratory sampling equipment and electronic technology.

### ***Environmental compliance monitoring regime***

- Georgia's environmental compliance monitoring regime is well developed. As in many OECD and EU countries, it comprises planned inspections; ad hoc inspections; examinations; audits; a DES hotline and e-mails for alerts and public inquiries; a 24/7 response team at the DES for less serious environmental incidents; self-monitoring by companies; and monitoring by civil society.
- The number of environmental monitoring stations in Georgia has increased. The DES laboratory carries out basic sampling and analysis, while the NEA carries out more advanced sampling and analysis and publishes environmental information. However, the number of monitoring stations remains insufficient, especially for groundwater.
- Self-monitoring by companies complements public compliance monitoring. Companies must submit self-monitoring reports, and continuous self-monitoring of air pollution has been recently launched. Several online information-gathering platforms exist. However, companies sometimes do not submit their continuous self-monitoring reports or do so late, and there is no Pollutant Release and Transfer Register (PRTR).
- Planned inspections are risk-based, which corresponds to international good practice. Risk criteria, adopted in 2019, establish the types and frequencies of planned inspections and a system for risk assessment and inspection planning. Inspection plans and schedules are published online.
- However, the number of annual inspections is low considering the total number of high-risk and medium-risk entities and the total number of available inspectors; at the same time, some inspections are unusually long, lasting up to 120 days on site.

### ***Environmental compliance enforcement regime***

- Following international good practices, Georgia uses responses to non-compliance along the enforcement pyramid: instructions to remove a violation, fines, suspension of activity, revocation of a permit and filing of a case in court. Administrative fines are the most commonly used penalty. However, such fines do not provide a sufficient deterrent as they remain low and are not index-linked to inflation.
- Other enforcement tools, especially criminal penalties, are used sporadically, most likely due to high costs and anticipated long and complex judicial procedures. The environmental chapters of

the Law on Administrative Offences and the Criminal Code are outdated, but they are being revised to introduce harsher penalties.

- The Law on Environmental Liability, adopted in 2021, establishes monetary liability for environmental damage, a requirement to remediate environmental damage and a public fund for remediation measures. While a step in the right direction, the law has some divergences from the EU Environmental Liability Directive. For example, it establishes strong reliance on the state budget in fulfilling prevention and remediation programmes, has different scope and definitions, and its criteria for determining significant damage have an unclear scientific basis. Georgia does not yet have a financial security regime for environmental liability despite legal provisions.

### ***Use of compliance promotion instruments***

- The MEPA and its DES share information and news relevant for environmental compliance assurance on their webpages and Facebook with the public.
- The EIEC ensures access to and shares environmental information, and conducts awareness-raising and education activities. It also provides training courses to the public, the private sector and MEPA staff.
- However, information sharing is mostly passive, i.e. provided as responses to requests. The MEPA does not seem to use tools such as meetings, video and radio campaigns. Private sector representatives complain about limited information about important environmental legislation, such as the new Law on Environmental Liability.

## **Key recommendations**

### ***Legal and permitting framework***

- Review, update and harmonise environmental legislation with the view to its enforceability and in the context of discussions of Georgia's EU candidate country status.
- Provide more opportunities for private sector representatives to participate in development of legislation by informing every permit holder through letters or e-mails, as well as sharing draft legislation for comments through business and trade associations.
- Accelerate the move towards integrated permitting and improve the permitting system by digitising the permit application procedure, establishing a fixed permit duration and making permit fees more differentiated and tiered; increase clarity about the Environmental Assessment Code permitting procedure among operators.
- Establish regular consultations on important environmental laws and permits between the permitting authority and the DES.

### ***Institutional framework for environmental compliance assurance***

- Conduct a structural review of the various bodies involved in environmental compliance assurance with the view to reducing their number, and improving co-ordination and communication among them.
- Improve and digitise information management processes for inspection, handling of complaints and responses to violations.
- Address staffing issues in environmental compliance assurance institutions by improving financial incentives for retaining the best staff; adopt structured training programmes, including a skills upgrade of existing staff and training for new staff.

- Modernise and expand the DES's field and laboratory sampling equipment and digital equipment.

### ***Environmental compliance monitoring regime***

- Improve the system of environmental inspections by increasing the number of inspections to at least fully cover high-risk and medium-risk activities, and optimising the use of inspectors' time by keeping the duration of inspections and the length of reports to a necessary minimum.
- Identify the need to reach a sufficient number of environmental monitoring stations, especially for monitoring of groundwater quality, and develop plans, including fundraising, for their purchase and installation.
- Incentivise companies to submit self-monitoring reports on time through reward measures such as fine reductions or when necessary the use of punitive measures such as daily fines.
- Establish a PRTR using existing online information systems.
- Expand the response capacity of the DES to cover serious environmental incidents "24/7".

### ***Environmental compliance enforcement regime***

- Develop, adopt and publish a comprehensive enforcement policy guidance document that states the main principles of enforcement, and lists available penalties and when they should be used. Such a document will help ensure the consistency and transparency of applied penalties.
- Complete the review and revisions of environmental legislation on penalties for non-compliance, including the environmental sections of the Code of Administrative Offences and the Criminal Code, in order to increase the dissuasive impact of penalties.
- In this context, a wider range of penalties other than administrative fines should be considered, and analysis carried out of the limited use of criminal penalties.
- Provide environmental training to the police, prosecutors and judges; consider establishing dedicated prosecutors specialised in environmental matters.
- Establish financial security mechanisms for environmental liability.

### ***Use of compliance promotion instruments***

- Adopt a proactive rather than a reactive approach to information sharing, such as through regular e-mail alerts, and engagement of trade associations and chambers of commerce; expand the range of forms of information provision about new environmental legislation to the private sector.
- Mobilise resources for the EIEC so it can provide more awareness-raising and training activities on environmental regulations.

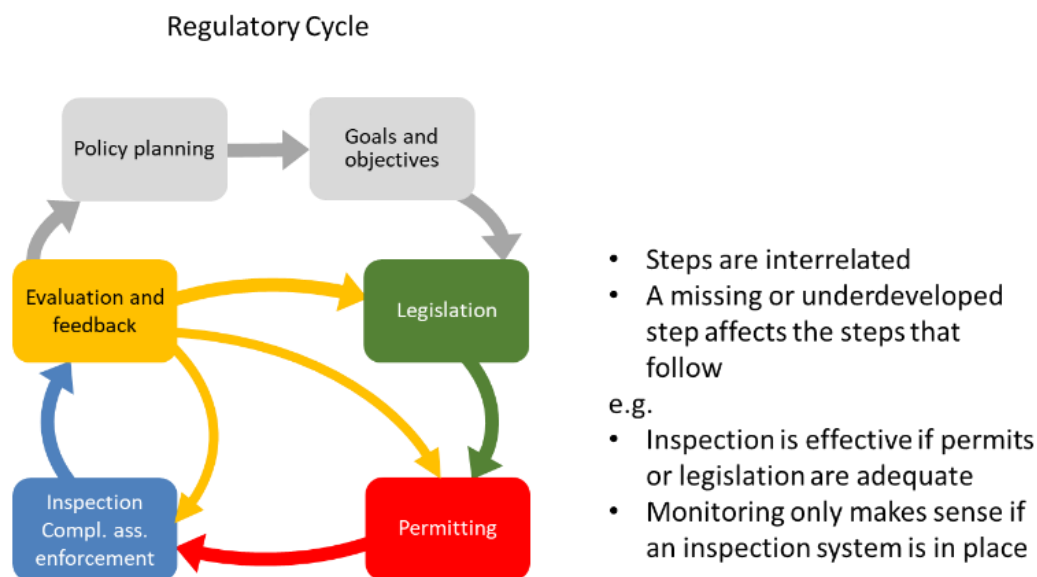
# 1 Introduction

1. A robust environmental compliance assurance system brings large benefits to a country's economic and social well-being. It protects public health and the environment, and ensures that natural resources continue to provide valuable goods and services to society. It helps countries obtain better environmental results and implement environmental policies at lower overall costs by focusing scarce resources where they are most needed and have the greatest effects. It promotes the rule of law and good governance, increases investor confidence by reducing business risks and stimulates innovation. In addition, it can create new jobs and promotes a level playing field among companies. Environmental compliance assurance activities can also enhance transparency and promote citizen involvement in enforcement.
2. Effective environmental compliance assurance can help Georgia successfully tackle its environmental challenges. Georgia's mean population exposure to particulate matter (PM<sub>2.5</sub>) in 2020 was more than four times higher than the World Health Organization (WHO) revised guideline (OECD, 2020<sup>[1]</sup>; WHO, 2021<sup>[2]</sup>). Its welfare costs of premature deaths associated with air pollution by PM<sub>2.5</sub> was 8.7% of gross domestic product equivalent in 2019 compared to 3.3% on average within the European Union (OECD, 2019<sup>[3]</sup>). Georgia experiences high levels of indoor and outdoor pollution, rampant illegal logging and insufficient control over use of its natural resources (World Bank, 2018<sup>[4]</sup>). Its abundant water resources suffer from discharges of untreated wastewater (OECD, 2021<sup>[5]</sup>). Its mining sector has an outdated and disjointed legal framework and poor institutional governance, as well as a lack of responsibility for the clean-up of abandoned mine sites (World Bank, 2018<sup>[4]</sup>). Municipal landfills and accumulated hazardous waste in the country remain an important source of environmental contamination (EEA, 2018<sup>[6]</sup>). Unsustainable soil use together with natural disasters and global warming lead to land degradation, with two-thirds of agricultural land in the country eroded or degraded (World Bank, 2018<sup>[4]</sup>; EEA, 2018<sup>[6]</sup>). Georgia is exposed to the risk of floods, drought, earthquakes and forest fires (EEA, 2018<sup>[6]</sup>).
3. In view of these factors, this report takes stock of the environmental compliance assurance system in Georgia. Chapter 2 reviews the legal and permitting framework for compliance assurance, and Chapter 3 describes the institutional set-up. Chapter 4 analyses environmental monitoring activity, including inspections. Chapter 5 provides an overview of activities to enforce compliance with environmental regulations. Chapter 6 presents findings in regard to promotion of environmental compliance. The report identifies gaps and includes suggestions for improving the various aspects of this system, which are also summarised in Table 7.1.

## 2 The legal and permitting framework for environmental compliance assurance

- The quality of the legal and permitting framework has a direct impact on the level of environmental compliance. The soundness and clarity of environmental regulations affect the compliance behaviour of regulated entities, and a crucial element is whether environmental regulations sufficiently remove benefits of non-compliance. The quality of permits and the permitting procedure are essential for effective regulation and monitoring activities, including inspections. According to the European Union Network for the Implementation and Enforcement of Environmental Law (IMPEL) “Doing the Right Things” methodology, the legal and permitting regime constitutes an integral part of an environmental compliance assurance cycle (Figure 2.1).

Figure 2.1. IMPEL “Doing the Right Things” methodology



Source: (Kramers, 2020<sup>[7]</sup>).

### Environmental policy and legal framework

- Georgia has achieved significant progress with regard to developing a comprehensive environmental policy framework (World Bank, 2020<sup>[8]</sup>). Its overarching document guiding environmental policy is a national programme for 2022-2026, which was preceded by the



programme for 2017-21. In addition, Georgia's 2030 Climate Change Strategy and Action Plan (Climate Change Strategy) governs its actions to meet its nationally determined targets for climate change mitigation (Government of Georgia, 2021<sup>[9]</sup>).

6. The 1997 Law on Environmental Protection provides the main principles and sets out the rights and obligations of citizens in the field of environmental protection. Notably, it establishes the polluter-pays principle and states that citizens have the right to live in a safe environment. The law includes provisions in regard to education and scientific research, including the creation of the Environmental Information and Education Centre (EIEC). It describes the set-up for state environmental management, the economic framework, information support (including co-ordination of the environmental monitoring system), standards and waste requirements, provisions for protection of ecosystems and protected territories, global and regional management, state control in the field of environmental protection and use of natural resources, and liability for environmental damage and compensation (Government of Georgia, 1997<sup>[10]</sup>).
7. Particularly important pieces of legislation in the field of environmental compliance assurance are the 2015 Resolution on the Rules for Exercising State Control by the Department of Environmental Supervision (DES), State Subordinate Agency of the Ministry of Environment and Natural Resource Protection of Georgia (the institution that carries out the duties of an environmental inspectorate) and the 2019 Order of the Minister of Environmental Protection and Agriculture of Georgia (MEPA) on Approval of the Methodology for Determining the Priorities for the Planning of Inspection of Regulated Facilities (discussed in more detail in the Monitoring chapter). Annex A lists Georgia's main laws relevant for the environmental compliance assurance system, and Annex B lists international environmental agreements to which Georgia is party.
8. A significant driver of environmental legislative reform in Georgia is the country's Association Agreement with the European Union, which was signed in 2014 and entered into force on 1 July 2016 (European Commission, 2021<sup>[11]</sup>). The third chapter of the agreement comprises environmental matters. Among other items, it includes environmental governance and horizontal issues, education and training, monitoring and environmental information systems, inspection and enforcement, environmental liability, combating environmental crime, transboundary co-operation, public access to environmental information, decision-making processes, and effective administrative and judicial review procedures (European Union, 2014<sup>[12]</sup>). The agreement foresees Georgia's approximation of certain EU and international laws. Annex C includes excerpts of the Agreement with provisions and timelines for the transposition of the EU Environmental Liability Directive and the Industrial Emissions Directive (IED).
9. In accordance with the Association Agreement, Georgia adopted the Law on Environmental Liability in 2021. This required companies to pay for removal of environmental damage (described in more detail in the Enforcement chapter). Georgia adopted the Law on Industrial Emissions, which aims to establish integrated permitting and the use of Best Available Techniques (BAT), on 29 June 2023.
10. The 2017 Environmental Assessment Code significantly improved environmental governance in Georgia, including the degree of public participation in planning and decision-making processes. This had a positive impact on implementation of environmental laws in the country (EEA, 2018<sup>[6]</sup>). In June 2022, the European Commission recommended that Georgia be granted candidate status once it addresses several priorities. This is likely to inspire more legal reforms (European Commission, 2022<sup>[13]</sup>).
11. While Georgia has well-developed environmental legislation, it struggles to apply it. As there is no obligation to regularly review legislation in Georgia, some of it is outdated. This includes the Law on Environmental Protection, the Administrative Offences Code, the Criminal Code and mining legislation. Anecdotal evidence suggests that some newer and older laws contradict each other through, for example, mismatched wording and definitions. In view of this, Georgia would benefit

from reviewing its body of environmental legislation to check if it is still fit for purpose and coherent. It should update or repeal outdated legislation and streamline and harmonise the laws.

## Public participation in the development of environmental policies and legislation

12. Stakeholders are regularly consulted in the development of environmental policies and regulations in Georgia. For example, the MEPA consulted with approximately 60 members of the Georgian Business Association on the 2021 Law on Environmental Liability (MEPA, 2021<sup>[14]</sup>). Relevant ministries and approximately 200 business sector representatives participated in consultations on the Law on Industrial Emissions.
13. Government institutions that contribute to public participation in the development of environmental policies and legislation include the following:
  - a. The **Environmental Committee of Georgia's Parliament**, which organises working groups with the participation of representatives from civil society, academia and business. It also organises hearings and thematic inquiries to review the effectiveness of laws and promote their implementation.
  - b. The **MEPA** publishes online draft laws<sup>1</sup> and information about public hearings on Environmental Impact Assessments (EIAs).<sup>2</sup> It also shares information about new legislation through e-mail, social media and print media.
  - c. The **EIEC** of the MEPA organises public hearings on environmental legislation, disseminates information about public hearings on EIA, and spreads awareness about new legislation through e-mail, its website (which includes a calendar of public hearings) and social media. It aims to support Georgia's implementation of the UNECE Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (the Aarhus Convention) and the UNECE Strategy for Education for Sustainable Development.
  - d. The **DES** of the MEPA disseminates information about public hearings on EIA through various means such as notices at public transport stops, schools, trade centres and post offices.
  - e. The **NEA** of the MEPA publishes information about public hearings on EIA on its official website.<sup>3</sup>
14. Georgia has improved its overall IT infrastructure for providing environmental information to the public, including through development of specialised portals.<sup>4</sup> It continues to update its legislation on environmental data and sharing of information. The EIEC website plays an important role in environmental information provision in Georgia and provides links to various information systems.<sup>5</sup> This addresses criticism previously received from the European Environment Agency that Georgia

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<sup>1</sup> <https://mepa.gov.ge/Ge/DraftLaws>.

<sup>2</sup> <https://mepa.gov.ge/Ge/PublicDiscussion>.

<sup>3</sup> <https://nea.gov.ge/Ge/GZSH-Applications>.

<sup>4</sup> Ambient Air Quality Portal (<https://air.gov.ge/>); the Forest and Land Use Atlas of Georgia (<https://atlas.mepa.gov.ge/?l=ka>); the Waste Management System (<https://waste.mepa.gov.ge/Login>); the Map of the Release of Harmful Substances into the Ambient Air from Stationary Sources (<http://map.emoe.gov.ge/>); the MEPA Environmental Assessment Portal (<http://eia.gov.ge/>); a water management system, developed with support from the European Neighbourhood Instrument Shared Environmental Information System II East project. Georgia is also testing a geoportal.

<sup>5</sup> <https://eiec.gov.ge/En/InformationSystems>.

lacks a single web platform for easy access to various sources of information and data (EEA, 2020<sup>[15]</sup>).

15. Civil society in Georgia actively participates in the development of environmental policy. However, the private sector lacks awareness about new laws, as well as deadlines and costs associated with their implementation. In some cases, companies find out about new laws only after their publication. The government should expand private sector participation in environmental policy elaboration. It can use wider and more frequent consultation processes with as much detail as possible about important environmental legislation. Channels for information dissemination could include letters or e-mails to every permit holder, as well as sharing draft legislation for comments through business and trade associations. The government must also encourage the private sector to use electronic platforms for consultation about draft laws.
16. Georgia should also address complementary issues with stakeholder engagement. These comprise the low quality of information provision, unclear records and follow-up on feedback received during consultations, low accessibility or public awareness of grievance redress systems and a weak capacity of project implementing entities to manage inclusive grievance redress mechanisms (World Bank, 2020<sup>[16]</sup>).

## Permitting framework

17. Deregulation has affected Georgia's environmental standards. Georgia began to deregulate at the beginning of this millennium to improve general enabling conditions for business and reduce its administrative burden (UNECE, 2016<sup>[17]</sup>). The last few years have seen several important changes in the permitting framework.

### ***The use of EIA as the main permitting tool***

18. Georgia's 2017 Environmental Assessment Code, which came into force on 1 January 2018, is the main document governing environmental permitting in the country. It introduced procedures for EIA, Strategic Environmental Assessment (SEA) and Transboundary Impact Assessment. The Code has a differentiated approach to activities with a high and a low environmental impact. Annex I lists activities with a high environmental impact subject to an EIA. Annex II lists activities with a low environmental impact subject to a screening procedure for a need to perform an EIA (except for as provided by Article 7<sup>[13]</sup> of the Code). Within EU4Environment, UNECE is assisting Georgia with updating EIA guidelines, including around the hydropower sector, as well as SEA guidelines in a transboundary context.
19. Technical regulations address permitting of activities that do not fall under the Environmental Assessment Code. Operators of activities subject to technical regulations must submit information on technical conditions for surface water abstraction to the NEA. They must also submit a technical report with an inventory of emission point sources and pollutants emitted into the air.
20. Environmental impact decisions (Environmental Decisions) are equivalent to permits in Georgia and regulate industrial emissions and discharges from large facilities. This approach is different from the one used by most countries, where an EIA takes place prior to planning and then delivering a site-specific permit. In Georgia, Environmental Decisions establish emission limit values (ELVs) in the receiving media and are set for each enterprise (installation) individually. Site-specific permits are based on calculations that consider different technical parameters. These include stack height, flow rate (cubic metres per second), distance to nearby settlements, Air Quality Standards (so-called Maximum Allowable Concentrations, or MACs) and cumulative impact/background concentration in an area (i.e. sites with multiple emissions).

21. Some representatives of the international community believe that adoption of the Environmental Assessment Code has improved the effectiveness and transparency of permitting in Georgia. However, the Code has significant capacity constraints around implementation, monitoring and enforcement (World Bank, 2020<sub>[16]</sub>). Operators consider it complex and unclear, including its categorisation of activities. More explanatory activity about this Code and development of practical manuals for its application will be helpful.
22. Natural resource use rights in Georgia have been granted through a different procedure – an open electronic auction process – since 2011 (UNECE, 2016<sub>[17]</sub>). The applied procedure and methodology lack transparency (UNECE, 2016<sub>[17]</sub>). In addition, it is advisable to make it mandatory to consider the bidders' non-compliance/enforcement history to allow them to take part in the auction.

### ***The use of integrated permitting***

23. Georgia has previously used the concept of integrated pollution prevention and control in its legislation. Notably, Georgia introduced the concept of BAT in its Law on Environmental Protection and the Law on Ambient Air Protection.
24. Georgia's adoption of the Law on Industrial Emissions on 29 June 2023 will establish integrated permitting and the use of BAT in the country. The law describes the procedure for integrated permitting/the combined procedure of EIA and integrated permitting, drawing on the BAT conclusions, monitoring/reporting and public participation. The integrated permitting system will come into force in 2026. The timeframe for companies' implementation of BAT will be based on economic sectors. The law was developed within an EU-funded Twinning project aimed at the approximation of the EU IED.
25. Integrated permitting will be helpful for both operators and regulators. Any additional external assistance that could be mobilised to provide relevant information and build capacity could speed up introduction of the BAT approach. Eventually, Georgia should extend integrated permitting beyond the sites included in the IED to other sites with multiple emissions from one site.

### ***Permitting procedure***

26. Box 2.1 describes the procedure for obtaining an Environmental Decision (permit) for entities subject to an EIA in Georgia.

### Box 2.1. The procedure for obtaining an Environmental Decision (permit) for entities subject to an EIA in Georgia

The procedure for obtaining an Environmental Decision (permit) is the following:

- An applicant (operator) or a consultant for the operator submits an EIA report to the Department of Environmental Assessment (DEA) of the National Environmental Agency (NEA) of the Ministry of Environmental Protection and Agriculture (MEPA) for consideration. The application must include information on calculating threshold limit values of emissions of harmful substances into the ambient air and pollutants discharged into surface water bodies and wastewaters.
- There are two rounds of EIA public hearings. The NEA also receives comments by e mail.
- The NEA studies the EIA report and other information from the applicant entity if necessary, as well as information obtained through consultations with the public and with administrative bodies.
- The NEA sets up an expert commission within three days of an application's registration to examine it. The expert commission can include representatives of other MEPA departments, another government body or external experts.
- The Head of the NEA signs Environmental Decisions.
- The decision may require the applicant entity to take certain measures either prior to or during its activity.
- The NEA publishes all EIA documents on its official website.

Source: (Government of Georgia, 2017<sup>[18]</sup>); (Government of Georgia, 2017<sup>[19]</sup>)

27. While the MEPA has a corporate content and task management system (e-Document), permit applications are submitted by mail or e-mail and are processed manually. The MEPA should make it a priority to digitise permitting as soon as possible, as this would have multiple benefits. The MEPA is developing an online environmental permitting system in co-operation with the EIEC and with financial support of the Ministry of Finance. This database will contain Environmental Decisions (permits) and related documentation for permits issued after 2018. The database will be available to the public and the DEA of the NEA. After the initial stage of this database, Georgia is advised to extend its coverage to all permits, including those issued before 2018. Georgia's database of permits should also be made available to the DES.
28. The NEA of the MEPA plans to establish an Electronic Licensing System for natural resources, which will share information on licensing and accept electronic applications for natural use licences. This follows the NEA's launch of a new portal on the Revenue Service webpage in 2018, which allows for electronic licence auction registrations and submissions of documents.
29. Permits in Georgia have an open duration (they are termless), and the oldest date as far back as 1996. Only documents on discharges (water and air emissions) need to be validated every five years. It is important to establish a fixed duration by which sites must reapply for their permits. This would provide a clear opportunity to review the environmental impact of a site, check an entity's compliance history and identify the need to modify a permit. In many European countries, the standard permit duration is 8-12 years. It seems that Georgia's Law on Industrial Emissions will lead to a periodical revision of issued permits for installations that it covers.

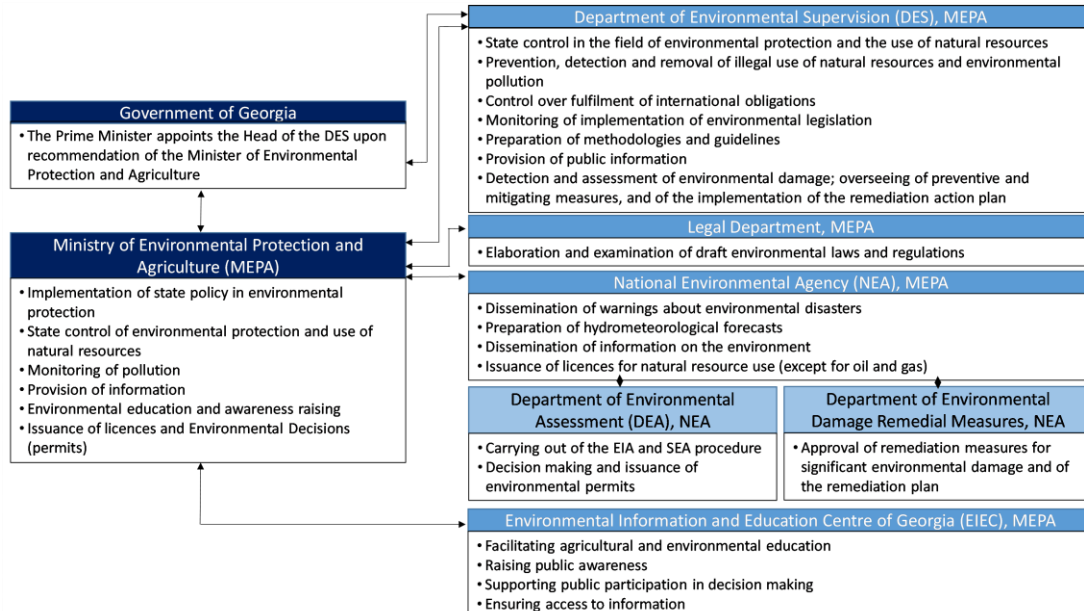
30. Georgia has a flat permit application fee of GEL 500 (approximately EUR 143). The permit fees should be made more proportionate and tiered based on activity size and complexity to correspond to the polluter-pays principle.
31. It would be useful for the NEA to consult with the DES about important permits, such as for activities covered by the IED and large quarries. According to existing legislation, the DES is not formally involved in decision-making processes. Therefore, the NEA rarely consults with the DES on permit applications.

# 3 The institutional set-up for environmental compliance assurance

## Summary of institutional responsibilities

32. The main institutions in the area of environmental compliance assurance in Georgia are departments and entities under the Ministry of Environmental Protection and Agriculture (MEPA). The most prominent are the National Environmental Agency (NEA) and the Department of Environmental Supervision (DES). Figure 3.1 shows the main tasks of institutions that co-operate on environmental compliance assurance matters.

Figure 3.1. The main institutions in the environmental compliance assurance system in Georgia



33. The **MEPA's** main tasks are implementation of state environmental protection policy, except in the area of oil and gas; issuance of environmental permits; carrying out of state management and control in the field of environmental protection and the use of natural resources, except for oil and gas; monitoring of environmental pollution; ensuring access to information on environmental protection; and support to increasing environmental education and environmental awareness (Government of Georgia, 1997<sub>[10]</sub>). Total state budget allocations to the MEPA amounted to

approximately GEL 629 million in 2021 (about EUR 175.7 million), covering both environmental and agricultural activities and programmes. The MEPA was established in 2017 following a merger of the Ministry of Environment and Natural Resources Protection and the Ministry of Agriculture (EEA, 2020<sup>[15]</sup>).

34. The MEPA's **Legal Department** elaborates or examines draft environmental laws and regulations, and co-ordinates law-making activities of the MEPA.
35. The **NEA**, a legal entity established in 2008 within the MEPA, prepares and disseminates warnings and notifications in the event of unexpected natural, hydrometeorological and geological disasters and adverse events; prepares hydrometeorological forecasts; prepares and disseminates information on the state of the environment; manages a state unified information fund on mineral resources; develops and manages a unified information fund on land resources; registers and tracks past and ongoing industrial, and scientific and geological works. The NEA also approves air and water protection documentation<sup>6</sup> and receives technical inventory reports from operators on emission point sources and emitted pollutants into air for approval.
36. The NEA issues several types of natural use licences (except for oil and gas) through its licensing department. These comprise licences for forest use, including special licences for timber production and for hunting farms, fishing and certain activities in the Appendices to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES).
37. Notable departments of the NEA for environmental compliance assurance are:
  - a. The **Department of Environmental Pollution Monitoring**. This department monitors environmental quality in Georgia, including of water, air and soil. It establishes pollution levels, provides information on environmental pollution, develops databases and participates in the assessment of risk and damage caused by environmental emergencies.
  - b. The **DEA**. Following recent updates to the Environmental Assessment Code, the DEA of the NEA became responsible for EIA and SEA processing and the issuance of Environmental Decisions (permits) as of 2022. Prior to this, the DEA was a stand-alone department of the MEPA. The total state budget allocation to EIA and SEA activities was GEL 901 000 (approximately EUR 251 667) in 2022 and GEL 930 000 in 2021 (approximately EUR 259 770). The 2021 budget was approximately 0.1% of the total budget of the MEPA, which is low considering the department deals with all EIA and SEA procedures. As of July 2022, the DEA had 27 employees and 5 vacant positions.
  - c. The **Department of Environmental Damage Remedial Measures**. After the adoption of the Law on Environmental Liability, Georgia created this department within the NEA. It works with the DES to implement the law. More details are available in the Enforcement chapter.
38. The **DES** of the MEPA ensures implementation of state control in the field of environmental protection and use of natural resources, except for control of compliance with licences for mining activity, including mineral extraction, and radioactivity. The DES was established in May 2013 (DES, 2021<sup>[20]</sup>). It oversees close to 10 000 entities, with only 1 060 of those possessing permits (Environmental Decisions) and most of the rest subject to technical regulations (over 8 000 entities). As of December 2022, other regulated entities comprised 12 holders of special licences for timber production, 24 holders of an export licence, 16 holders of a special hunting licence and 16 holders of a special fishing licence (Korkotadze, 2022<sup>[21]</sup>). The central state budget allocation to the DES was GEL 20.25 million (approximately EUR 5.7 million) in 2022 and GEL 16.85 million (approximately EUR 4.7 million) in 2021, constituting approximately 2.7% of the MEPA budget that

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<sup>6</sup> These include information on calculating threshold limit values of emissions of harmful substances into the ambient air; threshold limit values for pollutants discharged in surface water bodies along with wastewaters; technical conditions for surface water abstraction.



year. The funding is projected to increase to GEL 25 million (approximately EUR 8.7 million) in 2023 (Korkotadze, 2022<sup>[21]</sup>). Despite the increases, the budget share of the DES in the MEPA budget is still low. More details on DES activities and functioning are available in Box 3.1. Figure 3.2 below sets out the structure of the DES. The DES has eight territorial units, including a central office in the capital of Tbilisi.

### Box 3.1. The Department of Environmental Supervision of the MEPA

The purpose of the Department of Environmental Supervision (DES) is to protect air, water, land, subsoil and biodiversity.

Main tasks of the DES are:

- planning, co-ordination and exercise of state control in the field of environmental protection and use of natural resources
- control over fulfilment of conditions in issued licences/permits in the field of environmental protection and over fulfilment of Georgia's international environmental obligations
- prevention, detection and removal of illegal use of natural resources and environmental pollution; and prevention and detection of administrative offences in the field of environmental protection
- monitoring of implementation of legislation, including creation of a database of regulated entities and analysis of reports on adherence to licences/permits by regulated entities
- preparation of methodologies and guidelines for state control in the field of environmental protection and natural resource use
- provision of information to the public about DES activities.

In addition, the DES, together with other authorised agencies, verifies the quality of motor gasoline and diesel fuel to determine compliance with governmental standards. Starting in 2023, the DES also became responsible for control of vehicle emissions.

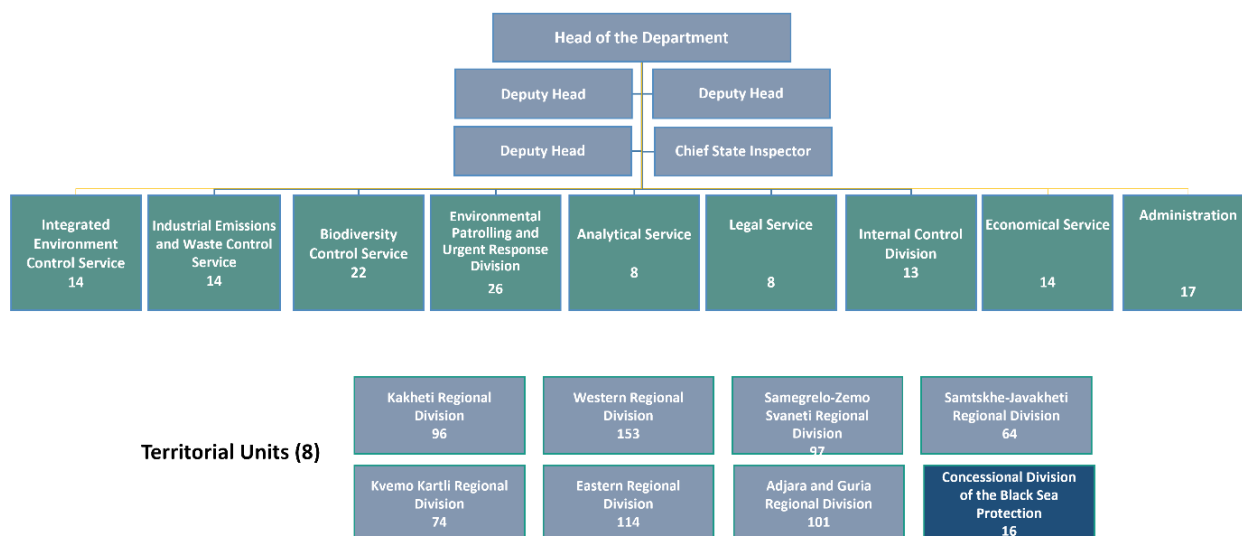
The DES is accountable to the Minister of Environmental Protection and Agriculture and to the relevant deputy minister. The Prime Minister of Georgia upon recommendation of the minister appoints and dismisses the Head of the DES.

The Chief Inspector of the DES supervises and co-ordinates inspectors when they carry out their official duties, assigns work, participates in the development of laws, instructions and guidelines in the field of state control, prepares proposals and opinions on environmental legislation and methodologies, signs documents, validates inspection plans and checks documents related to inspections, among other tasks.

At the time of writing the report, the DES had 120 inspectors across all regional offices. Supervisors evaluate inspectors each year according to established criteria. The Regulation on the Approval of the Statute of the State Sub-Agency of the MEPA – Environmental Supervision Department sets out inspector duties. The regulation establishes that inspectors and other employees of the DES are public servants with guaranteed economic, social and legal protection.

Source: (DES, 2021<sup>[20]</sup>); (DES, 2021<sup>[22]</sup>); (Korkotadze, 2022<sup>[21]</sup>); (Government of Georgia, 2013<sup>[23]</sup>)

Figure 3.2. Structure of the Department of Environmental Supervision of the MEPA



Source: (Korkotadze, 2022<sup>[21]</sup>).

39. The **Environmental Information and Education Centre (EIEC) of the MEPA** is unique. Established in 2013, it facilitates environmental and agricultural education, raises public awareness, supports the participation of the public in decision making, and ensures access to information (EIEC, 2021<sup>[24]</sup>). Its 2022 budget was GEL 3 million (EUR 0.9 million), and its 2021 budget was approximately GEL 5 million (EUR 1.5 million), which was approximately 0.7% of the overall MEPA budget that year. According to the EIEC, the budget was reduced following removal of a unified information technology policy from the EIEC's responsibilities. This centre and its activities are described in more detail in the Promotion chapter.
40. Different ministry institutions co-operate with each other, especially in the areas of permitting and environmental sampling. MEPA departments share with the DES information on permits, approvals of forest use plans, hunting management plans, management plans for water bodies and fisheries, information on the abstraction of water from surface water bodies, information on stationary sources of air pollution and the inventory of harmful substances emitted by them (Government of Georgia, 2015<sup>[25]</sup>). The NEA shares with the DES information on licences for natural resource use, approvals of mining activity and development plans for holders of mining licences (it is not, however, responsible for issuing mining licences, which is done by the National Agency of Mines) (Government of Georgia, 2015<sup>[25]</sup>).
41. In addition, other agencies contribute to environmental compliance assurance. Their mandates and level of co-operation with the DES are described in Table 3.1.

**Table 3.1. Co-operation of the Department of Environmental Supervision with other government agencies involved in environmental compliance assurance in Georgia**

Agency and responsible ministry	Mandate	Co-operation with the DES
<b>The National Forestry Agency, MEPA</b>	<ul style="list-style-type: none"> <li>manages the forest fund</li> <li>implements forest care and restoration measures</li> <li>regulates forest use</li> <li>exercises control over the territory of the forest fund (except for licence conditions)</li> <li>responds to illegal forest use and/or breach of contract</li> <li>participates in detection of illegal forest use and provides information about detection of illegal forest use</li> <li>carries out forestry accounting</li> </ul>	<ul style="list-style-type: none"> <li>close co-operation</li> </ul>
<b>The Agency of Protected Areas, MEPA</b>	<ul style="list-style-type: none"> <li>manages Georgia's natural reserves, national parks and monuments, protected landscapes, biosphere reserves, world heritage sites and wetlands of international importance</li> <li>controls illegal use of natural resources in protected areas</li> </ul>	<ul style="list-style-type: none"> <li>average co-operation (informs the DES about violations that are not within the Agency's competence)</li> </ul>
<b>The Nuclear and Radiation Safety Agency, MEPA</b>	<ul style="list-style-type: none"> <li>works on licensing and permitting of nuclear activity</li> <li>carries out planned and ad hoc inspections of nuclear and radiation activities, radioactive waste management etc.</li> </ul>	<ul style="list-style-type: none"> <li>no co-operation</li> </ul>
<b>The State Agency of Oil and Gas, Ministry of Economy and Sustainable Development of Georgia</b>	<ul style="list-style-type: none"> <li>regulates and carries out control over oil and gas operations, including exploration, extraction, processing, storage and transportation</li> <li>controls and supervises fulfilment of licence conditions</li> </ul>	<ul style="list-style-type: none"> <li>close co-operation (Memorandum of Understanding), including on damage to the environment; the DES shares information about regulated entities, inspections and laboratory test results</li> </ul>

Source: (Government of Georgia, 1999<sup>[26]</sup>; Agency of Protected Areas of Georgia, 2021<sup>[27]</sup>; DES, 2021<sup>[28]</sup>; Nuclear and Radiation Safety Agency of Georgia, n.d.<sup>[29]</sup>).

## Assessment of institutional arrangements

### *Inter-institutional co-ordination*

42. The MEPA has many different departments and subsidiary entities that work on environmental compliance assurance. In most countries, between one and three entities co-operate on compliance assurance, combining functions of the DES, the NEA (and its DEA), the EIEC and aspects of the Legal Department of the MEPA. A common set-up is to have one entity with responsibilities of the NEA (including the DEA) and the EIEC, and another as the DES and the laboratory. A high number of different entities can create barriers to information sharing and action, a risk of overlap, add back-office costs and create confusion for operators and the public. It is recommended that Georgia conduct a structural review and combine some of its departments, entities and functions along the lines just mentioned. The overall allocated budget to these activities should ideally increase.
43. Despite ongoing co-operation among the various MEPA entities and departments, some private sector stakeholders believe that institutional co-ordination on compliance assurance is lacking. Both external and internal communication could be improved, especially between the permitting and enforcement units. A more streamlined structure with fewer separate entities can help address this issue. A single electronic database of permitted entities shared between all relevant institutions and departments will help in this regard. A process for the DES to comment on important environmental legislation and on draft permits would also be useful.

### ***The number and skills of human resources***

44. The public environmental institutions engaged in environmental compliance assurance struggle to attract and retain qualified and experienced staff, who often leave for jobs in the private sector. According to the DES, this challenge results in a lack of coverage of geographical areas and a lower frequency of inspections (Korkotadze, 2022<sup>[21]</sup>). It is recommended that Georgia address the staffing difficulties in its environmental compliance assurance institutions through financial and other incentives as soon as possible to maintain the quality and consistency of its services. The MEPA is aware of the issue and is developing legislative proposals aimed at attracting experienced human resources and providing incentives to staff (MEPA, 2019<sup>[30]</sup>). The DES increased its staff from 330 to 856 between 2013-22 (more than doubling the number in 2019), and plans to increase its mobile patrol and response team (MEPA, 2019<sup>[30]</sup>; Korkotadze, 2022<sup>[21]</sup>). The EIEC plans to increase the number of its permanent staff from 17 to 25 in 2023; it has about 50 temporary contract staff and some outsourced staff.
45. Despite training for inspectors,<sup>7</sup> the lack of required skills among the DES staff, as in the rest of the MEPA departments, is widely recognised. In addition, the central Tbilisi office of the DES has more qualified people than the regional offices. The reasons for this predicament are numerous. Lack of staff incentives (with lower salaries compared to the private sector) and lack of staff experience, contribute to this problem. Moreover, anecdotal evidence points to a lack of training materials and courses for inspectors.
46. The MEPA needs to analyse skills among the permitting staff and inspectors, identify gaps and develop a corresponding structured training strategy, which would specify the type of training to be delivered and to whom. Although departmental human resource units are responsible for such training, there is no evidence these units have a long-term training strategy in place. EIEC training to ministry stakeholders, including inspectors, received almost uniform praise from course participants. However, the Centre has no structured long-term training programme for the MEPA either. Instead, it sets its training programme based on a yearly list of priorities, which depend on MEPA staff, regulatory changes and environmental goals.
47. In addition, there is a need for continuous learning and upskilling of staff. The MEPA should consider establishing routine training for inspectors, especially new ones, given the high level of turnover. Its approach should focus on ensuring and maintaining competency. The EIEC, which already delivers various training to multiple stakeholders, including inspectors, could deliver such training. However, it might require more funding and staff for these additional tasks. In addition, the EIEC should implement the e-learning training platform for MEPA officials, which it is developing, as a helpful resource. It should also maintain and expand its train-the-trainer system to enhance training delivery and outreach.

### ***Information management and equipment at the inspectorate***

48. The DES has been expanding its information management systems in recent years and plans to digitise more processes. It has established the following electronic systems:
  - a. an electronic timber resource management system, which can track the process from tree cutting to processing

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<sup>7</sup> There were 12 skill-building activities in 2018 (DES, 2018<sup>[39]</sup>), 12 in 2017 (DES, 2017<sup>[55]</sup>), 8 in 2016 (DES, 2016<sup>[33]</sup>) and 6 in 2015 (DES, 2015<sup>[56]</sup>). The topics of training in 2018 comprised the practical implementation of the EU ELD and the IED. Most of the training is targeted, with 10-20 inspectors taking part in each session (MEPA, 2019<sup>[30]</sup>). The DES Urgent Response Division Staff and foresters took part in training organised with the support of the GIZ (130 employees in 2022, 260 in 2020, 156 in 2019 and 180 in 2017) (Korkotadze, 2022<sup>[21]</sup>).

- b. a sawmill electronic system, which registers sawmills, as well as the reception and processing of logs
  - c. an electronic system for payments of fees for removal of migratory birds from the environment
  - d. an electronic fishing management system for holders of special fishing licences and industrial fishing
  - e. an internal official information management system on regulated entities and violations (although its database for registering violations is now obsolete)
  - f. a satellite electronic monitoring system for control of Georgian-flagged vessels that are fishing in the territorial seas or open seas under the jurisdiction of a foreign country (Korkotadze, 2022<sup>[21]</sup>).
49. To build on the progress, the DES plans to introduce an e-system for inspection management, which will include data on control activities and permit conditions, and an electronic method for risk quantification (MEPA, 2019<sup>[30]</sup>). It is also establishing an electronic refrigerant management system and an electronic forest inspection act and report (Korkotadze, 2022<sup>[31]</sup>). The DES is encouraged to speed up digitisation of its key processes, including inspection planning and results, the processing of complaints and the tracking of responses to violations.
50. The DES is updating its equipment. It received new equipment in 2019, including 65 pick-up trucks, which allowed it to triple the number of its patrol cars equipped with GPS. It also received some equipment for its environmental patrol and rapid response service such as shoulder cameras, laptops, field tablets and night-vision binoculars (DES, 2019<sup>[32]</sup>; Korkotadze, 2022<sup>[21]</sup>). In 2016, the DES purchased a variety of equipment for its rapid response team, including vehicles, boats, binoculars, noise measuring devices, magnetic field energy flow measuring tools and measuring tools for forest inspectors (DES, 2016<sup>[33]</sup>). Yet, the DES still lacks equipment to carry out its functions efficiently. In particular, it lacks other key types of measuring equipment, field and laboratory sampling equipment, and electronic technology such as field tablets (Korkotadze, 2022<sup>[21]</sup>). Mobile office technologies such as tablets would allow inspectors to spend more time in the field than in the office. The use of automatic report generation/filing can help reduce the amount of time spent on site during an inspection.

# 4 The environmental compliance monitoring regime

51. Georgia monitors environmental compliance through risk-based inspections, examination, audits, self-monitoring by permitted entities, laboratory monitoring and analysis, and public alerts.

## Environmental inspections

### *Types of inspections*

52. The Law on Environmental Protection provides for three categories of environmental inspections in Georgia: i) planned; ii) ad hoc; and iii) examinations (Government of Georgia, 1997<sup>[10]</sup>).
53. An **inspection** can comprise checks of self-monitoring reports, facilities and equipment, and production processes and accounting documents. It can also review emissions and waste, and examine documents of purchase and sale of raw materials and supplies. In addition, it can include laboratory sampling and measurements. As one priority, the Department of Environmental Supervision (DES) carries out “preventive” inspections, which aim to detect and stop illegal activity. This includes control of genetically modified organisms, fuel quality, pollution of the Black Sea, fishing, timber processing and other facilities (DES, 2019<sup>[34]</sup>).
54. Inspections can be categorised as complex (checking fulfilment of all obligations), targeted (checking fulfilment of specific requirements/obligations and the condition of specific aspects of the environment) or selective (checking a large-area facility such as a holder of a forest licence or a hunting licence) (Government of Georgia, 2019<sup>[35]</sup>).
55. **Ad hoc inspections** take place in response to well-founded complaints from citizens and non-governmental organisations (NGOs), including those received through the DES hotline; complaints from management of agencies/organisations; and to fulfil requirements set by earlier inspections (Korkotadze, 2022<sup>[31]</sup>). The grounds for ad hoc inspections are responses to an emergency situation, including emissions; a follow-up to a violation of environmental regulations for a detailed study; control of adherence to environmental legislation by certain water vessels; verification of self-monitoring reports of entities; elimination of violation of licence/permit conditions and verification of fulfilment of licence conditions in the field of natural resource use; and verification of fulfilment of requests to rectify violations (Government of Georgia, 2015<sup>[25]</sup>).
56. The DES carried out 2 719 inspections in 2021 (out of which 93 were planned and 46 ad hoc);<sup>8</sup> 1 760 inspections in 2020 (out of which 84 were planned and 28 ad hoc), and 2 884 inspections in 2019 (out of which 60 were planned and 87 ad hoc).
57. An environmental **examination** aims to visually examine a regulated entity and obtain general information about it. This information can later be used to make decisions about inspections and response measures regarding the regulated entity. During an examination, an inspector can obtain

<sup>8</sup> The number of inspections of vessels is not included in these figures.

general information about a regulated entity's activities; visually inspect the property, facilities and equipment; examine extracted natural resources and compare them to permitted amounts; and take laboratory samples and measurements.

### ***Risk assessment methodology for environmental inspections***

58. Georgia adopted a risk assessment methodology for planning inspections in 2019 (the Order of the Minister of Environmental Protection and Agriculture of Georgia on the Approval of the Methodology for Determining the Priorities for Planning the Inspection of Regulated Facilities). The methodology determines types and frequencies of planned inspections, the system for general risk assessment and for inspection planning, the content of an annual inspection plan and the steps for determining inspection priorities. The methodology mainly targets large facilities with significant environmental impact, which have undergone an EIA and received an Environmental Decision (permit), as well as the holders of licences for natural resource use.
59. The risk categories and the corresponding inspection frequencies are:
- a. high risk, to be inspected annually (applies to 174 entities)
  - b. medium risk, to be inspected every two years (applies to 605 entities)
  - c. small risk, to be inspected every three to four years (applies to all other entities subject to permits or technical regulations) (Government of Georgia, 2019<sup>[35]</sup>).

The DES reviews the risk categories approximately every three years.

60. The procedure for the risk assessment of entities consists of the following:
- a. determination of environmental risk based on investigations, assessments, permits/licences and other regulatory documents
  - b. determination of environmental risk of an entity's activities based on information on compliance with regulatory requirements, inspection results, reports by the entity, information and complaints submitted by the ministry or other agencies/organisations
  - c. categorisation of risk of a regulated entity and determination of inspection frequency according to a number of conditional points awarded to the entity based on criteria in Annex III of the methodology document.

Annexes to the main document also set out criteria for companies holding forest use licences, fishing licences and hunting licences.

61. The Head of the DES decides on inspection frequency and priorities based on several factors in addition to risk categorisation. These include available financial and human resources, number and qualifications of inspectors, availability of information on companies, inspections by the company and other governmental authorities, complexity of regulated facilities, priorities of the MEPA and local governments, and the minimum number of larger companies and small and medium-sized enterprises (SMEs) that must be inspected (Government of Georgia, 2019<sup>[35]</sup>). The DES determines the number of inspections of SMEs each year based on priority activities and specific characteristics of a geographical area.

### ***Procedural considerations of inspections***

62. Georgia passed a resolution that sets out basic principles, requirements and procedures for state control in the field of environmental protection and the use of natural resources, including inspection and case management by the DES (Government of Georgia, 2015<sup>[25]</sup>). The resolution – Rules for Exercising State Control by the Department of Environmental Supervision, State Subordinate Agency of the Ministry of Environment and Natural Resource Protection of Georgia – also sets out inspection procedures. These include how to enter a site, an inspector's duties and

steps to follow during an inspection. The DES is developing inspection checklists as an additional guidance document.

63. With few exceptions, the Minister of Environment and Natural Resource Protection of Georgia or the Head of the DES must approve a planned or ad hoc inspection through an individual administrative act (Government of Georgia, 1997<sup>[10]</sup>). As opposed to inspections, an examination does not require an order from the Head of the DES.
64. The Head of the DES and the Minister of Environmental Protection and Agriculture of Georgia must approve an annual inspection plan of the DES at the end of each calendar year (Government of Georgia, 2015<sup>[25]</sup>). It must be published and made available on the DES website. The plan may be revised based on new information that becomes available (Government of Georgia, 2019<sup>[35]</sup>). The DES then draws up a schedule of inspections, which is also available online. Planned inspections can be carried out with or without a warning to an inspected entity (Government of Georgia, 2015<sup>[25]</sup>).
65. The MEPA's permitting department sends the DES information on the issuance, transfer, modification or revocation of environmental permits to inspect against, including a copy of the EIA report and a permit certificate (Government of Georgia, 2015<sup>[25]</sup>). The DES can view issued permits online and is also notified of permit decisions at the same time as the operator. However, there is no shared online database of all permits, as mentioned in the Legislative and Permitting Framework chapter.
66. An inspection of a regulated entity can last up to 60 days and be extended (Government of Georgia, 2015<sup>[25]</sup>). Most inspections last under 30 days, but some take up to 120 days on site (the maximum duration according to legislation). These longer ones occur mostly when a company occupies a large area and must undergo a complex inspection. Some companies undergo inspections several times a year.
67. During an inspection, a company's representatives prepare and sign daily records ("field acts"). These records serve as the basis for two documents drawn up by inspectors at the end of an inspection: an inspection act (reflecting action taken) and an inspection report (describing all action taken, results and identified violations). The inspected entity has a right to provide comments and explanations, including for any administrative violation, and it can refuse to sign the inspection report. An inspection report can range between 10-100 pages; there is no template (Korkotadze, 2022<sup>[31]</sup>). The DES makes inspection information immediately available to its leadership and other concerned agencies (MEPA, 2019<sup>[30]</sup>). It also publishes inspection results on its website.

### ***Analysis of environmental inspections***

68. While inspections in Georgia have improved since establishment of the DES in 2013, the inspection regime could be further strengthened in several ways (UNECE, 2016<sup>[17]</sup>).
69. The number of yearly inspections is small given the number of available inspectors and the risk of permitted entities. It does not cover all high-risk entities on an annual basis and results in a low number of inspections per inspector. The DES should examine the cause for such inspection numbers and at least cover the high-risk annual inspections and the medium-risk biannual inspections. According to the DES, the low number of planned inspections is a result of a low number of inspectors and their high workload, as well as the high number of unplanned inspections and time spent on responding to complaints. However, other possible reasons for lower inspection numbers could be poor prioritisation or targeting, lack of funds, long inspection times on site and the excessive length of inspection reports, which take up the valuable time of inspectors. Inspection plans should also be developed in a way that inspectors will mostly complete them. Multi-year inspection plans could be used as the basis for annual plans to ensure appropriate oversight and avoid missing significant sites.



70. An inspection's duration at one site can be too long and should be shortened to three to five days, including preparation, execution and write-up of an inspection report. The time on site should ideally be one to three days, even in the case of criminal non-compliance. This will also free inspectors to carry out other work.
71. Inspection reports should be 2-10 pages in length rather than the current length of up to 100 pages. The inspection report primarily passes on key messages to the operator on what must be rectified for compliance. Information should be prioritised, clear and concise. A 100-page report with overly technical language creates a risk that entities will not read or understand it well. It also takes up the valuable time of inspectors.
72. It is a positive development that Georgia has a formalised risk assessment. High-risk sites are logically subject to more frequent and in-depth inspections. It is also positive that the inspection plan is made publicly available. However, the timetable, tactics and details, such as the time of an inspection, should be kept confidential. The risk assessment should stay flexible to reflect factors such as previous compliance, a change in emissions or strategic targets. A review of the categories once every three years would not allow for enough flexibility.

## Environmental audits

73. In addition to inspections, the DES carries out environmental audits of permitted entities. An environmental audit is "a comprehensive analysis of the technical, environmental and social indicators of current activity in the process of implementation, which includes the entire production and technological cycle". It is performed "in order to identify the means for minimising negative effects on the environment and to ensure the compliance of the activity with environmental standards, followed by an environmental audit report" (Government of Georgia, 2017<sub>[19]</sub>). An internal environmental audit analyses compliance by an operator with requirements of environmental legislation and environmental standards, including those established by an operator, and analyses the effectiveness of its Environmental Management System (Government of Georgia, 1997<sub>[10]</sub>). An inspection, on the other hand, can either be a visual inspection of activities of a regulated entity or an analysis to check fulfilment of requirements of the country's legislation in the field of environmental protection and use of natural resources (Government of Georgia, 2015<sub>[25]</sub>).
74. An audit takes place following a decision by the MEPA or at the initiative of an operator. The initiator of the audit bears its cost. Audit results can be made available to the public if they do not contain state, commercial or industrial secrets.
75. The audited company should cover the costs of an audit regardless of which entity initiates it to comply with the polluter-pays principle. This type of a requirement is usually built into a general environmental law. It could also be done through regime-specific legislation, although this approach could take longer.

## Laboratory monitoring and analysis

76. According to the Law of Georgia on Environmental Protection, the MEPA is responsible for overall co-ordination of the environmental monitoring system and for making monitoring results available to the public (Government of Georgia, 1997<sub>[10]</sub>).
77. The DES has its own lab, which conducts basic sampling and analysis. However, it involves the NEA of the MEPA for more advanced testing. The private sector also carries out some of the sampling and analysis.

78. The NEA conducts extensive environmental monitoring of ambient air, water and soil; houses a hydrometeorological service; and monitors the Black Sea coast. The NEA's Department of Environmental Pollution manages three labs that conduct environmental sampling during regular working hours. The NEA publishes monitoring information on its website, including on inspections. It also issues quarterly and monthly information bulletins.
79. The government has been expanding its network of environmental monitoring stations. The network of surface water quality monitoring stations increased from 41 to 69 between 2009-14 across 40 water bodies, and the number of monitoring parameters also increased (UNECE, 2016<sup>[17]</sup>). Georgia plans to install 27 automated stations for continuous air quality monitoring, to monitor water quality in 200 locations and to monitor soil pollution in up to 70 locations (MEPA, 2021<sup>[36]</sup>). In addition, the MEPA plans to increase groundwater monitoring (MEPA, 2021<sup>[36]</sup>).
80. Georgia is improving its online monitoring systems, including through online air quality monitoring<sup>9</sup> and a sophisticated digital database of forestry resources of the National Forestry Agency, which allows to track them over time.
81. The NEA has been receiving various capacity-building support focused on improving its monitoring capacity. Several examples are provided in Box 4.1.

#### Box 4.1. Examples of capacity building of Georgia's environmental monitoring

- Strengthening of the air quality monitoring network with support of the United Nations Development Programme (UNDP) and the government of Sweden. Results so far include advice on necessary monitoring stations and their maintenance, data verification and data processing, and guidelines on checking air concentration. One of the project's key recommendations is to increase the number of monitoring stations in the country from the eight currently in place.
- Improvement of monitoring of water and groundwater quality with support from the European Union and in co-operation with the EU Water Initiative Plus (EUWI+) for Eastern Partnership (EaP) countries.
- Development of a forest information and monitoring system with support of the German Agency for International Co-operation (GIZ).
- Development of a "Timbeter" digital timber measurement solution with financing from the government of Estonia. The tool aims to simplify reporting and determine tree dimensions.

Sources: Invalid source specified..

82. Despite the increase in coverage of monitoring stations and the variety of digitisation initiatives, laboratory monitoring and analysis of environmental compliance must be improved in several areas.
83. First, all three NEA laboratories lack capacity and human resources despite the significant capacity-building support received. Second, Georgia should identify the number of needed monitoring stations, especially for groundwater quality, and take steps to increase it, including fundraising. It should also improve the technology and automation of the stations. Third, given that groundwater quality and quantity are strategic environmental issues for Georgia, the NEA must improve its capacity to monitor groundwater and develop a surveillance system around key sites.

<sup>9</sup> <https://air.gov.ge/en/>

Fourth, there is room for improvement in the use of primary data, its access and comparability. There is no Laboratory Information Management System in Georgia.

## Self-reporting by companies

84. Companies in Georgia are required to conduct self-monitoring and submit yearly reports to the MEPA on waste, water and air emissions.
85. The Law of Georgia on Ambient Air Protection states that regulated entities are required to ensure accurate self-monitoring of emissions into ambient air from stationary sources of pollution for all activities, except for a few covered by technical regulations (Government of Georgia, 1999<sup>[26]</sup>). Self-monitoring comprises measurement, accounting and annual reporting of emissions. Failure to fulfil this obligation results in a fine. Electronic reporting through the publicly available Environmental Information Management System (emoe.gov.ge) replaced paper-based reporting in 2017. Information gathered includes annual emissions and information on the emitter (name, address, exact location, type of activities, use of fuel and material, amount of production, etc.).
86. Continuous monitoring of air emissions is mandatory as of 1 June 2021 for certain activities (MEPA, 2021<sup>[37]</sup>). It applies to 94 large stationary facilities (Korkotadze, 2022<sup>[21]</sup>). They are required to register in an electronic system of continuous self-monitoring of emissions of harmful substances from stationary sources of pollution. The system continuously receives data through devices installed at the operators' source of harmful emissions (Korkotadze, 2022<sup>[21]</sup>). As of December 2022, only 15 companies were registered in the system (Korkotadze, 2022<sup>[31]</sup>).
87. The Law on Waste specifies that natural and legal persons that deal professionally with the collection, transport and/or treatment of waste and those that have produced more than two tonnes of non-hazardous waste (excluding municipal waste) or any amount of hazardous waste per year need to keep records of waste and submit them to the MEPA (Government of Georgia, 2015<sup>[38]</sup>).
88. Certain entities, specified in the National Classifier of Georgia on Economic Activities, must report water abstraction, use and discharge using the same electronic system as air emission reporting (emoe.gov.ge) instead of paper forms starting in January 2022. Georgia plans to further expand this reporting system.
89. Georgia also plans to establish an electronic system for land and soil reporting by 2025.
90. According to anecdotal evidence, many companies that must continuously monitor air submit self-monitoring reports late or not at all. Action needs to be taken to remove these delays and encourage the timely submission of reports. Action could include reward measures for timely submissions such as reduced charges or fines, or punitive measures for transgressors such as day fines (fines issued for every day of non-compliance).

## Pollutant Release and Transfer Register

91. Georgia is a signatory of the Protocol on Pollutant Release and Transfer Registers (PRTR) to the Aarhus Convention and plans to eventually ratify it. The MEPA intends to create a functioning PRTR. The DES of the MEPA views the existing electronic systems for air emissions reporting and water reporting, as well as the waste reporting system under development, as steps towards a PRTR. Yet the country has no single national PRTR to gather the various information in one place. Georgia should aim to move forward with establishing the PRTR, which can help set policy, assess risk (if it feeds into the risk assessment scheme) and conduct enforcement. For this purpose, it is encouraged to put in place a co-ordinated plan to collect data together in one central place from the various existing and future electronic systems.

## Independent monitoring by the public and NGOs

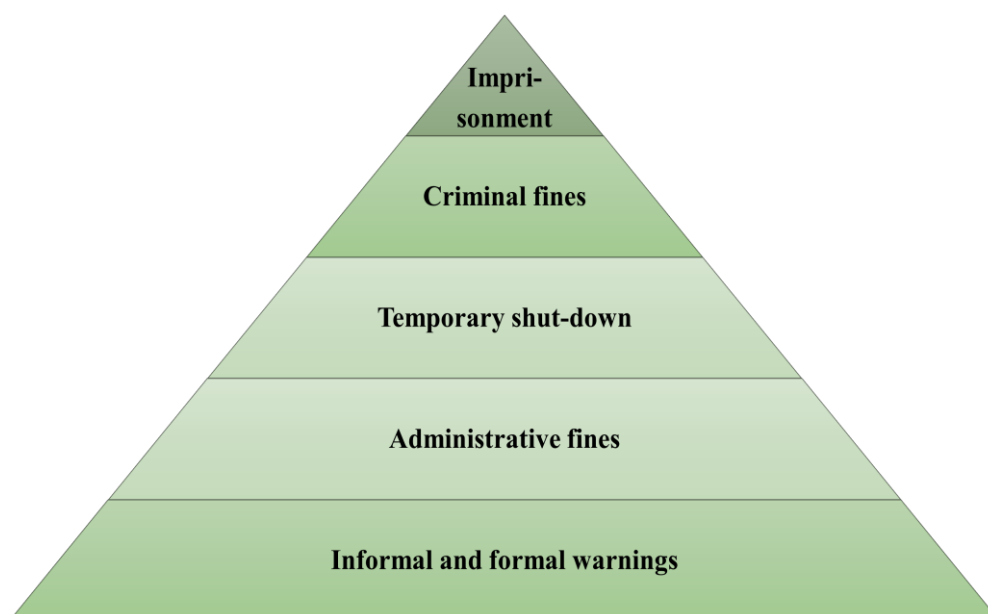
92. The public and civil society can report violations to the DES through the 24/7 “153” hotline. The DES received 2 866 notifications of violations in 2021 (Korkotadze, 2022<sup>[21]</sup>), 2 592 notifications in 2020, (DES, 2021<sup>[22]</sup>), 3 259 notifications in 2019 (MEPA, 2019<sup>[30]</sup>) and 2 601 notifications in 2018 through this hotline (DES, 2018<sup>[39]</sup>). The top five topics of notifications received in 2021 concerned the sawmill electronic log, ambient air pollution, violation of forest legislation, pollution from waste and odour (Korkotadze, 2022<sup>[21]</sup>). In addition to the hotline, the DES has an SMS notification system and two e-mail addresses to receive complaints (Korkotadze, 2022<sup>[21]</sup>). The DES should establish a clear process for tracking how it deals with environmental complaints, ideally an electronic one.
93. The DES has a rapid 24/7 response team, which focuses on matters such as poaching, illegal logging and fishing. In 2022, the team had 103 staff, a significant increase from 64 in 2018 (Korkotadze, 2022<sup>[21]</sup>). The DES plans to increase its environmental patrolling and rapid response capacity to provide full geographical coverage (DES, 2018<sup>[39]</sup>). It seems the team deals with less severe incidents and that regular inspectors can be called on to take part in 24/7 responses. According to the DES, this is largely the result of a lack of staff and appropriate qualifications, as well as a heavy workload and insufficient pay. The 24/7 response capacity needs to be expanded to cover more serious environmental incidents, which often require specialists.
94. Civil society is active in environmental monitoring in Georgia. For example, NGOs monitor the Rich Metals Group (RMG) companies’ environmental commitments. The company has an agreement with the MEPA to monitor its polluting activity with the goal of reducing its damage to the environment (MEPA, 2021<sup>[40]</sup>).

# 5 The environmental compliance enforcement regime

## Use of a pyramid of penalties for non-compliance with environmental regulations

95. The number of violations discovered over 2020-22 increased each year. In 2022, the DES identified 9 484 violations, among which 9 080 fell within administrative law and 404 within criminal law (Korkotadze, 2022<sup>[21]</sup>). Most concerned were the Waste Management Code (24%), ambient air legislation (16%), forest legislation (13%), transportation of timber (10%) and fishing and hunting rules (9%) (Korkotadze, 2022<sup>[31]</sup>). Reasons for non-compliance are multiple and include few incentives for permitted entities to comply and their lack of green technology, as well as ineffective sanctions against non-compliant behaviour.
96. Georgia has a range of penalties against non-compliance in accordance with the standard compliance enforcement pyramid (Figure 5.1). These comprise instructions to remove a violation; suspension of activity; fines for environmental damages, violations of permit and licence conditions, and violations of environmental regulations; revocation of a permit; and filing of a case in court. The DES warns an entity in advance about a sanction that it will receive.

Figure 5.1. Standard compliance enforcement pyramid



97. As one principle guiding its enforcement activity, the DES must use the same methods against transgressors in similar circumstances (Government of Georgia, 2015<sub>[25]</sub>). If an inspection discovers non-compliance, including circumstances that may present an immediate threat to evidence about the violation, an authorised DES official must carry out necessary measures to obtain evidence. This includes seizing items and documents, sealing evidence, taking samples and drawing up a protocol of an administrative offence (Government of Georgia, 2015<sub>[25]</sub>). The official must also carry out an appropriate emergency response. S/he may require the regulated facility to implement mandatory measures to eliminate the discovered violation in consultation with the DEA of the NEA for reasonable timeframes (Government of Georgia, 2015<sub>[25]</sub>). The DES issued letters with a request to remove identified violations within a reasonable timeframe to 191 regulated entities in 2022 and to 96 regulated entities in 2021 (Korkotadze, 2022<sub>[31]</sub>). The DES submits to the General Prosecutor's Office or the Ministry of Internal Affairs cases with signs of a criminal offence and with potentially high environmental damage (over GEL 1 000, approximately EUR 278.5), which it estimates on the basis of its EIA methodology.
98. As of September 2021, the DES can restrict the activity of an entity in circumstances set out in legislation. According to the Law of Georgia on Environmental Protection, the DES can restrict activity of a regulated entity partially or completely in the following cases:
- a. operation without a permit/licence
  - b. significant threat of an activity to the environment, the elimination of which is mandatory but impossible to achieve immediately
  - c. risk of danger to human life or health (Korkotadze, 2022<sub>[41]</sub>).

The restriction of an activity is valid until the regulated entity addresses these issues.

The Ordinance on the Procedure for Carrying out State Control by the DES provides additional grounds for restricting an activity of a regulated entity partially or completely in the following instances:

- a. non-use or absence of a cleaning device
- b. exceedance of established pollutant limits by five or more times during a company's operation
- c. violation of an enterprise's technological cycle that has led to unforeseen emissions
- d. carrying out activities in a prohibited area.

In 2022, the DES issued letters to 84 regulated entities with a request to fully or partially restrict activity (Korkotadze, 2022<sub>[31]</sub>). The Code of Administrative Offences sets out fines for non-compliance with these activity restrictions. The fines are GEL 10 000 to GEL 30 000 (approximately EUR 2 820 to EUR 8 458) for the first offence and GEL 20 000 to GEL 60 000 (approximately EUR 5 639 to EUR 16 916) for a repeat offence.

99. Chapter XXXVI of the Criminal Code is on "crime against the rule of environmental protection". It covers several types of violations.<sup>10</sup> Criminal penalties include fines, correctional work, imprisonment, house arrest and deprivation of the right to hold office or work.

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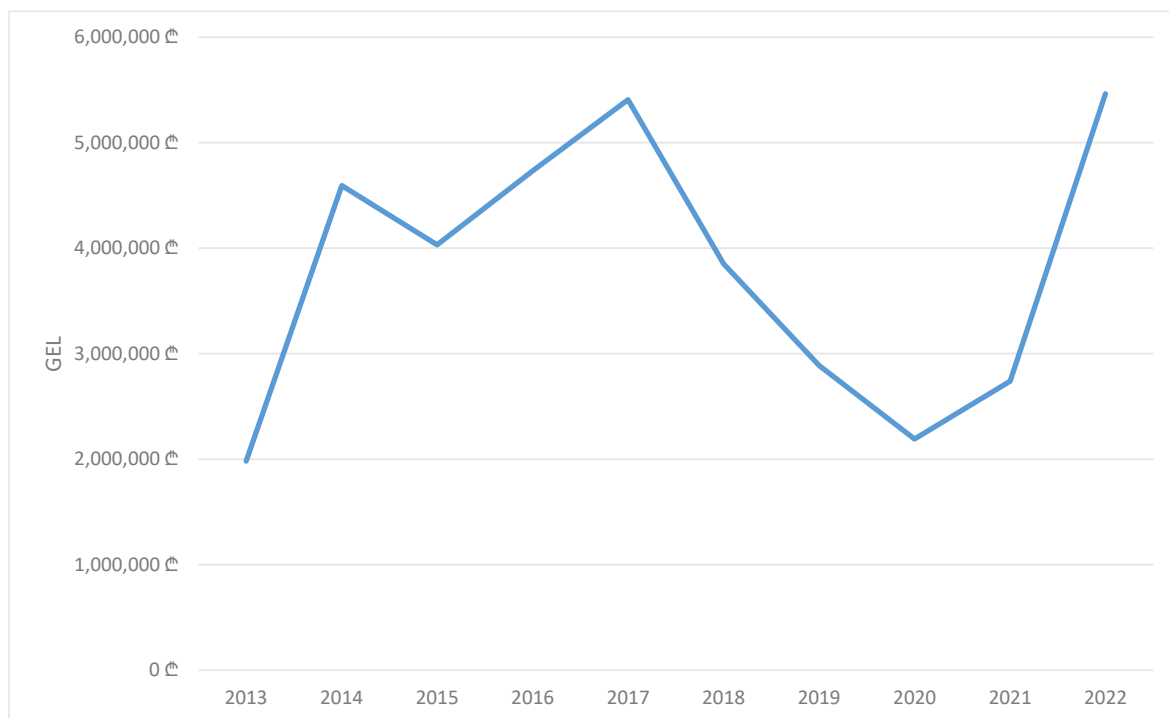
<sup>10</sup> Violation of environmental protection rules during works, violation of sawmill registration requirements, violation of rules of treatment of environmental hazardous substances or waste, violation of activity rules for the use of living genetically modified organisms, violation of legislation in the field of veterinary medicine, violation of water use rules, water pollution, sea pollution, non-notification about dumping substances or other waste/materials harmful to human health or marine living organisms into the sea; violation of legislation regarding the continental shelf, territorial waters or special economic zones of Georgia; unusability of land, violation of rules for the use or protection of minerals in certain instances or operation of a mining enterprise or underground structure, use of minerals without a proper licence, illegal fishing, illegal hunting, disruption of the location of an endangered wild animal or plant from the "Red List" of

100. Most companies (around 70-80%) appeal the penalties imposed on them, according to the DES. The first level of appeal is the Minister of Environmental Protection and Agriculture. Subsequently, appeals go to the court system.
101. Georgia is amending various laws on environmental crime. Among other laws, it is amending the Code of Administrative Offences; the Criminal Code; the Waste Management Code; the Law “On Operative-Investigative Activities”; the Law “On Making Changes to the Criminal Procedure Code of Georgia”; the Law on Environmental Protection; and the Law on “The World of Animals”, among others. Notably, the updates to the Code of Administrative Offences and the Criminal Code will introduce harsher penalties for mining of minerals without a licence and for illegal felling and transportation of timber (Korkotadze, 2022<sup>[41]</sup>). Criminal liability will be established for fishing with prohibited devices such as electrofishing (Korkotadze, 2022<sup>[41]</sup>).

### ***Environmental payments and administrative fines (monetary fees for non-compliance)***

102. There is no taxation system for polluters in Georgia. It imposed administrative fines of GEL 5 641 650 (approximately EUR 1 913 779) in 2022 (Korkotadze, 2022<sup>[31]</sup>). Figure 5.2 shows the trend of administrative fines imposed by the DES during 2013-22.

**Figure 5.2. Fines for environmental non-compliance imposed by the Department of Environmental Supervision of the MEPA during 2013-22**



Source: (MEPA, 2019<sup>[30]</sup>; Korkotadze, 2022<sup>[31]</sup>).

The National Bureau of Enforcement from the Ministry of Justice collects the fines imposed by the DES and directs the funds to the central budget. Collected fines are not earmarked for

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Georgia, illegal felling of trees and bushes, damage or destruction of a forest or plant, and violation of a protected area.

environmental activities and are not allocated to DES activities. Approximately half of fines imposed in 2022 were collected, which is low (Korkotadze, 2022<sup>[31]</sup>). The low collection rate of fines must be addressed or other enforcement tools should be considered instead.

### ***Analysis of the use of penalties against non-compliance***

103. Laws governing penalties for environmental transgressions need to be reviewed and updated to ensure they are still fit for purpose. The Law on Administrative Offences dates from 1984. Although it has gone through some incremental revisions to be in line with newer legislation, it is outdated. The Criminal Code from 1999 is also outdated. The government of Georgia is already taking action in this regard. It is also considering revisions to the Law on Administrative Offences and revising its penalties for air pollution to bring them closer to European standards (MEPA, 2020<sup>[42]</sup>).
104. There is a need to set out environmental enforcement policy in Georgia in a single comprehensive document. This would list the available penalties and describe when they are likely to be used. It would ensure that comparable offences are treated in a similar manner. It should also be publicly available to ensure the transparency of enforcement policy. Such a document will help address criticism about inconsistency and corruption in enforcement action. Some examples of such policy guidance documents are the Enforcement and Sanctions Policy in England (Chapter 7 focuses on “Enforcement Options”) (Environment Agency, 2019<sup>[43]</sup>) and the National Environmental Enforcement Strategy in the Netherlands (Circabc, 2014<sup>[44]</sup>).
105. The DES primarily uses administrative fines as a response to non-compliance. However, it should make more use of other tools, including enforcement undertakings, and naming and shaming. In an enforcement undertaking, the offender makes a voluntary offer to the regulator to restore and remediate the local environment and to prevent another case of non-compliance. In exchange, the regulator lifts or reduces monetary penalties (Mazur, 2022<sup>[45]</sup>). The offender can also volunteer to pay money, usually to a charity, to make up for non-compliance and its effects. Enforcement undertakings should be considered where it would not be in the public interest to prosecute an offence, which is usually expensive. This can help overcome the unwillingness or lack of capacity of police to be involved. The DES does publish articles about non-compliance on its website, but it could use the naming and shaming approach more often. It should continue to publish information about its enforcement action, including about the fines imposed.
106. The review identified that some permitted facilities do not have satisfactory abatement equipment and cannot operate their technology in a satisfactory manner. It could be useful to have mutually agreed plans with companies to upgrade their technology with binding dates and milestones, agreed in advance with the DES. Such requirements could be included in permits. Failure to comply with the plan could have clear punitive consequences for the company. This approach has been used often throughout Europe during a transition to new, stricter legislation.
107. There is reluctance to undertake criminal action against non-compliance despite the high number of significant cases. The DES forwarded to the Prosecutor’s Office/the Ministry of Internal Affairs 416 cases of a potentially criminal nature in 2021, which were discovered during patrols and inspections; 426 cases in 2020; and 758 cases in 2019. However, the DES does not have information on the results of these cases. No prosecutors specialise in environmental matters, and they do not regularly take part in environmental courses (one known training on environmental issues for judges was organised in December 2022) (Korkotadze, 2022<sup>[41]</sup>). Moreover, investigation of criminal cases takes a long time and there are possible gaps in the collection of evidence (Korkotadze, 2022<sup>[41]</sup>). It is recommended to strengthen the criminal enforcement chain in Georgia. It would be useful to examine why criminal enforcement tools are barely used and to address the findings. Then, it would be important to work with prosecutors to ensure that cases are prepared in a way that meets their needs; provide required training to the police, prosecutors and judges on environmental matters; and consider development of specialised environmental prosecutors.



108. The fines set out in the Code of Administrative Offences are low compared to those in other countries. Many fines have not been revised for a long time and are not index-linked to inflation. In some cases, a fine is set at the same level for violation of critical and non-critical permit conditions (Korkotadze, 2022<sup>[41]</sup>). Fine levels have been increased in recent years in certain instances. Notably, they were increased in 2021 for industrial emissions that do not use a dust collection system, and for non-compliance with permit conditions, as well as operation without a permit (Korkotadze, 2022<sup>[41]</sup>). However, fine levels need to increase further to dissuade polluters and must be index-linked to inflation. They should also reflect the severity of an offence.

## Environmental liability provisions

### *Georgia's Law on Environmental Liability*

109. Georgia adopted the Law on Environmental Liability on 2 March 2021, which entered into force on 1 July 2022. The law, which aimed to transpose the EU Environmental Liability Directive (ELD), was developed with European experts. It replaces a previous governmental decree on the methodologies for calculating environmental damage.

110. The law is an important step towards enhancing Georgia's environmental liability regime. It addresses prevention of environmental damage in case of an imminent threat of such damage, mitigation of damage, remediation of significant damage to the environment and monetary compensation for environmental damage. Appendix I of the law includes criteria for determining significant damage to biodiversity, land and water, while Appendix II identifies activities that are particularly hazardous for the environment (Government of Georgia, 2021<sup>[46]</sup>).

111. The law obliges polluting companies to pay for and carry out remediation measures to restore the damaged environment to its original state (MEPA, 2021<sup>[47]</sup>). Remediation measures comprise:

- a. primary remediation (restoration of the damaged environment to its original state)
- b. complementary remediation (creation of a substitute/equivalent alternative for damaged natural resources/deteriorated services in an adjacent or another site)
- c. compensatory remediation (compensation for intermediate losses).

Complementary and compensatory measures are considered when the environment cannot be restored to its original state or if primary remediation measures are too expensive or take an unreasonably long time.

112. The law establishes a fine of GEL 1 000-8 000 (approximately EUR 351-2 810) in several cases. These include a polluter's failure to notify authorities about environmental damage, failure to adopt a remediation plan, non-fulfilment of preventive or mitigating measures or of remediation measures foreseen by the remediation plan, or operation without environmental insurance.

113. The law foresees establishment of an "Environmental Programme" on environmental measures. This programme will collect monetary compensation for environmental damage from the polluter. It also imposes a mandatory contribution of 2% of the estimated cost of remediation measures according to the remediation plan. Environmental measures can include prevention of harm, restoration of the damaged environment, general improvement, research activities or other measures. The MEPA disburses programme funds upon the recommendation of a governmental commission.

114. Implementation of the Law on Environmental Liability is split between the NEA and the DES of the MEPA. The NEA approves remediation measures for significant environmental damage and the polluter's remediation plan, ensures involvement of all interested parties in approving the plan and determines the amount/means of financial security for the risk of environmental damage. The DES

detects and assesses environmental damage, implements or oversees the preventive and mitigating measures, and oversees implementation of the remediation action plan.

115. Georgia is developing secondary legislation with support from the European Union and the United Nations Development Programme. Secondary legislation comprises the procedure for determining monetary compensation for damage to the environment; the criteria for determining remediation measures for significant damage; the procedure for drawing up a remediation plan for significant environmental damage; and the procedure for selecting complementary measures to correct significant environmental damage in the vicinity of the damaged area or in another area.

### ***Analysis of correspondence of Georgia's Environmental Liability Law to the EU ELD***

116. It is an important achievement that Georgia has adopted a stand-alone law on environmental liability rather than adjusting existing legislation, which has a risk of creating an implementation gap. Many EU countries have adopted a stand-alone law, including Estonia, Hungary, Latvia, Poland, Romania and Slovakia. There are, however, elements of Georgia's Law on Environmental Liability that do not reflect the strict requirements of the EU ELD, including furtherance of the polluter-pays principle upon which the ELD is based.
117. First, Georgia's Law on Environmental Liability establishes a reliance on the state budget in fulfilling prevention and remediation requirements, notably through the Environmental Programme, which is financed through the state budget. More specifically, the DES can apply to the Commission of the Environmental Programme when an operator is failing to fulfil its obligations for prevention/mitigation so it can take necessary actions. In this case, the operator must reimburse all the costs to the Environmental Programme. In addition, if an operator fails to carry out remediation measures even after receiving an administrative sanction, the DES can apply to the Environmental Programme to finance the remediation measures. This feature is not present in the ELD and creates a risk of a breach of the polluter-pays principle. An environmental fund will breach the polluter-pays principle where it subsidises an operator's prevention or remediation costs or meets claims for bodily injury or property damage caused by their activities (European Commission, 1993<sup>[48]</sup>). Such subsidies occur where a polluter does not bear the full cost of the damage caused, and other contributors to the fund bear any deficit between the polluter's contribution to the fund and the cost of damage. This may be expected under the current regulatory approach in Georgia. Financial security requirements should be used to avoid such an outcome.
118. Second, Article 2(2)(c) of Georgia's liability law appears to indicate the law does not apply to damage inflicted on a private owner of land. If so, this will dramatically curtail the scope and regulatory utility of the liability law. Article 2(2)(c) states that it does not apply to "damage inflicted on a *private owner* that does not exclude the private owner's right to claim compensation for damage from an operator responsible for the damage as provided for by the legislation of Georgia". The EU ELD does not apply to "damage to *private property*", e.g. a vehicle, house or other belongings, but it does not "affect any right" regarding this type of damage (EU ELD, recital 14). This means that a claim alleging damage to private property could still be pursued in court by way of civil action. That action would not, however, pertain to an infringement of the ELD as actions relating to civil liability are beyond its scope. The EU ELD does, however, still apply to privately owned land. Georgia's liability law seems to confuse the true scope of the EU ELD as regards privately owned land. This should be clarified through a redrafting of Article 2(2)(c). The scope of that provision is critical to the operability of Georgia's liability law and its broader compatibility with the EU ELD.
119. Third, Georgia's definition of "environmental damage" and "industrial accident" is narrow and inconsistent with the ELD. Georgia's Law on Environmental Liability defines "environmental damage" as "adverse effects on the environment caused by an industrial accident and/or an illegal action of an operator". It defines an "industrial accident" as "an explosion, fire, or leak of hazardous substance (substances) that is caused by an uncontrolled development in the production process at

*a facility*, and that poses a *sudden* and serious threat to human life, health and/or the environment, both inside and outside the facility”. The ELD, however, is not limited to facilities and could include, for instance, the spillage of pollutants during transit. There is also no requirement under the ELD for the environmental damage to be “sudden”.

120. Fourth, the Criteria for Determining Significant Damage in Annex I of Georgia's law are not consistent with the ELD or the European Commission's 2021 guidance document on environmental damage (European Commission, 2021<sup>[49]</sup>). The criteria for significant damage in Annex I appear somewhat arbitrary. In the European Commission guidelines, the meaning of “significant” is “a matter of objective, technical assessment based on measurable data”. However, in Annex I of Georgia's law, the thresholds seem unscientific. For example, it defines significant damage to land as a case where 500 square metres or more of agricultural land is contaminated (the contamination level exceeds twice or more the baseline condition). The scientific basis for this threshold is not clear. Nor is it clear why the threshold is limited to agricultural land.
121. Moreover, knowledge about the Law on Environmental Liability and capacity for its enforcement needs to be improved, including within the MEPA. Some companies were not aware of this law, even though the private sector and civil society participated actively in its development.
122. Finally, steps should be taken in Georgia to establish financial security for environmental damage. Article 13 of the new Law on Environmental Liability stipulates that entities carrying out particularly dangerous activities must have financial security such as insurance or a bank guarantee. The financial value of the guarantee is supposed to be based on an assessment of damage of risk to the environment. This builds on the requirement in article 17 of the 1997 Law on Environmental Protection for insurance for activities with high environmental damage. Georgia is developing a regulation on financial security for the risk of harming the environment by carrying out activities that are particularly dangerous for the environment, which was expected to come into effect in July 2023.

# 6 The use of compliance promotion instruments

## Information sharing, awareness raising and training to promote voluntary compliance

123. Georgia promotes compliance with environmental regulations through various channels. Different departments of the MEPA share information online, and organise awareness-raising and training activities about environmental compliance assurance and environmental regulations.

### ***Information provision and awareness raising***

124. The MEPA has a central website, and the DES has its own dedicated website. The MEPA publishes all environmental regulations, including adopted and draft environmental laws, resolutions, international agreements, the regulation on its mandate and the statutes of its departments. Its yearly reports also cover DES activities.

125. The DES publishes a variety of relevant information on its dedicated website, including:

- a. orders, laws, resolutions and international agreements
- b. inspection plans and reports
- c. annual reports, which have information on its organisational structure and budget, capacity-building activities, development of information systems and its “153” hotline, as well as statistics on violations, inspections, information on preventive measures and plans for the upcoming year
- d. news about discovered violations that detail the scale and location of an offence, and the DES’s reaction, with sector-specific statistics available. More than 170 posts about violations were included among news posted during July 2019-July 2021
- e. news about compliance activities for different time periods, such as monthly statistics, biannual statistics, statistics during the hunting season, etc.
- f. videos, in a separate section, some of which are about fines and transgressions, which contribute to naming and shaming the perpetrators
- g. general information, including staffing, state procurements and its privatisation of state property under a “proactively published documents” tab, as well as information on financing
- h. a page on frequently asked questions.

The DES plans to update its website and to proactively publish inspection reports, as well as information on detected violations.

126. In addition, the DES provides information to the public through its “153” hotline, through which it receives reports of violations of environmental legislation. It also uses a Facebook page.

127. Most awareness raising about compliance assurance of the MEPA and DES takes the form of news articles on their respective websites. The MEPA's articles mostly relate to forest use and hunting, and usually correspond to seasons.
128. The MEPA website includes information on its awareness raising and campaigns. Some recent examples are the Green Award to teachers for environmental and agriculture education; the launch of a competition for non-governmental organisations (NGOs) to create awareness-raising campaigns about sustainable forest management aimed at young people with support of the German Agency for International Co-operation (GIZ) (MEPA, 2021<sup>[50]</sup>; Agenda.ge, 2022<sup>[51]</sup>); the "Clean Region 2021" competition to showcase the benefits of avoiding or cleaning up pollution of wild, rural and urban environments, organised by Georgian NGOs with support of the MEPA and the Swedish government (MEPA, 2021<sup>[52]</sup>); and a GreeNovation contest on overcoming environmental challenges financed by the GIZ (MEPA, 2021<sup>[53]</sup>). Many initiatives are donor-financed and focus primarily on civic responsibility. For example, they encourage people not to litter and to use forest and water resources responsibly rather than raising awareness about environmental regulations and compliance with them.
129. The DES posts explanatory articles in the news section of its website about environmental regulations, fees and fines, the EIA procedure and the self-reporting procedure. It also actively promotes its "153" hotline in these articles. However, the DES does not actively raise awareness, for example, through video, radio or information boards. It is encouraged to be more proactive in this regard. The DES did organise a meeting with journalists on environmental issues in October 2019 in the framework of the Forestry Communication Strategy. During this meeting, the DES briefed the media about its activities, plans and legislative initiatives, and answered questions (DES, 2019<sup>[54]</sup>).
130. The EIEC is key for ensuring public access to environmental information, raising awareness about environmental and agricultural topics among the public, and education in these areas at national level. The EIEC website contains environmental reports, strategies and other documents. A recent website update has made it available to people with disabilities. The Centre is also carrying out a self-assessment of its awareness-raising activities.

### ***Training on compliance assurance***

131. The core functions of the EIEC are supporting education, raising awareness, ensuring access to information and promoting public participation. In addition, it organises training for various stakeholders, including children, students, teachers, private sector, civil society and the MEPA, usually for free. The training topics are wide ranging, including Extended Producer Responsibility (EPR), liability, waste, the green economy, environmental democracy and human rights. In addition, the EIEC organises meetings with the private sector to explain topics such as environmental legislation, air quality, sustainable procurement and EPR. It also delivers environmental manager courses four to six times a year for a fee. The Centre is developing training on the new Law on Environmental Liability. It is also working on obtaining accreditation for vocational education.
132. The DES itself and other MEPA departments rarely organise such training activity with the private sector. However, the DES usually co-operates with the EIEC for delivery of EIEC training. During July 2019-July 2021, the DES organised only one training: a meeting with fishers to explain the rules of fishing, and administrative and criminal offences. Other MEPA departments also organise some explanatory activity with civil society, focusing mostly on explaining environmental regulations.

## Assessment of the compliance promotion activities

133. EIEC activities receive positive feedback. Otherwise, civil society and the private sector generally believe the government is not doing enough to raise awareness, provide information about environmental regulations and deliver training on environmental regulations and compliance with them.
134. Given that new legislation has been drafted as part of Georgia's Association Agreement with the European Union, all operators must be informed when new legislation is live and when laws will come into force. Legislation is available online, but some private sector representatives were unaware of key laws, such as the Law on Environmental Liability, which was adopted in 2021.
135. This lack of knowledge and awareness is exacerbated by the passive rather than proactive model of information sharing. Operators and NGOs need to routinely search for information and are not informed about updates to the online information. Georgia should adopt more proactive methods of communication with the private sector, NGOs and the public about environmental regulations and compliance assurance topics. This can include, for example, active dissemination of information through trade associations and chambers of commerce in addition to e-mail alerts. As the DES is specialised in environmental control, it could increase and vary its types of awareness raising on environmental inspections and other compliance assurance topics (e.g. sanctions). This would complement EIEC awareness-raising activities.
136. More training and outreach are needed to explain environmental regulations to the private sector and the general public. The EIEC could consider providing more courses, even if it means increasing full-time staff. It should build on its experience with online courses (on green economy, environmental democracy, and environmental and agricultural education in schools) and offer more online training. It is encouraging that the EIEC is developing an online management and training platform with support of the GIZ.

# 7 Conclusions and the way forward

137. Georgia's legal framework for environmental protection is comprehensive. Among other important new legislation, the Law on Environmental Liability, adopted in 2021, establishes payments for and remediation of environmental damage. The Law on Industrial Emissions is set to introduce integrated permitting and the use of BAT in the country. Georgia is prioritising implementation of its Association Agreement with the European Union. Environmental policy making and control activities are separated, as the DES of the MEPA has been responsible for control over environmental protection since 2013. The DES conducts environmental inspections according to a 2019 risk assessment methodology, which sets out categories of risk and corresponding frequencies of inspection. There have been notable improvements in the management of environmental information and its sharing with the public, especially for air and water. The number of environmental monitoring stations has been increasing, and the NEA laboratories have built capacity. Georgia uses penalties along the enforcement pyramid, and has recently slightly increased its environmental fine levels. It is also revising environmental crime legislation. A separate MEPA agency, the EIEC, is entirely dedicated to sharing environmental information, stakeholder consultation on environmental policy, awareness raising and training. Stakeholders have praised the quality of its work.
138. Various aspects of Georgia's environmental compliance assurance system must improve to tackle the high level of non-compliance in the country. There are concerns that some pieces of its legislation and permitting process are outdated. The institutions that take part in environmental compliance assurance lack co-ordination, equipment and skilled staff, as well as a commonly shared permitting database. The inspections regime and the rest of the monitoring tools could be optimised to use available resources more effectively. The number of inspections should be increased, and the capacity of monitoring laboratories improved. Georgia can consider using a wider range of tools against non-compliance other than administrative fines. It must also share information more proactively, and expand its awareness-raising and training activities about environmental regulations and environmental compliance, especially with the private sector. Table 7.1 lists the main positive characteristics and gaps in the compliance assurance system of Georgia identified in this report, and recommends improvements.
139. Overall, the country could do more to promote application of the polluter-pays principle. To use inspectors' time optimally, Georgia should adopt a comprehensive strategy for lowering the incidence of non-compliance and target its efforts at non-compliance with the highest impact. To that end, it should find important issues, fix them and widely publicise the results.
140. Many challenges in the compliance assurance system in Georgia are comparable to those in other countries. Consequently, Georgia should continue to engage with relevant international organisations and networks working on environmental compliance assurance, such as IMPEL. In so doing, it could leverage their perspectives and expertise.
141. The EU4Environment Action will continue to seek ways to support the environmental compliance assurance system in Georgia. It will pursue this support both through its activities and by facilitating the EaP countries' engagement with relevant international networks.

**Table 7.1. Summary of positive characteristics, gaps and recommendations for improving the environmental compliance assurance system in Georgia**

CAS SYSTEM COMPONENT	POSITIVE CHARACTERISTICS, GAPS AND RECOMMENDATIONS
<b>LEGISLATIVE AND PERMITTING FRAMEWORK</b>	<p><b>POSITIVE CHARACTERISTICS</b></p> <ul style="list-style-type: none"> <li>• Environmental legislation is comprehensive.</li> <li>• A Law on Environmental Liability was adopted in 2021.</li> <li>• The Law on Industrial Emissions marks progress towards integrated permitting and the adoption of BAT.</li> <li>• A variety of channels exist for stakeholder consultations on environmental laws.</li> <li>• IT infrastructure for providing environmental information to the public has improved.</li> <li>• There are plans to digitise environmental permitting, including through an electronic publicly available permit database and an Electronic Licensing System for natural resources.</li> </ul> <p><b>GAPS</b></p> <ul style="list-style-type: none"> <li>• Some pieces of environmental legislation are not up-to-date and lack alignment in words and definitions.</li> <li>• The Environmental Assessment Code, which governs permitting, is unclear to operators.</li> <li>• Natural resource use licensing lacks transparency and does not include a fit and proper test.</li> <li>• Permits are termless, with the oldest ones dating to 1996.</li> <li>• Permitting is processed manually.</li> <li>• Permitting authorities rarely consult the DES on environmental permits.</li> <li>• There is no common MEPA permitting database available to the DES.</li> <li>• The private sector lacks awareness about new laws, and associated deadlines and costs.</li> <li>• Permitting fees are low.</li> </ul> <p><b>RECOMMENDATIONS</b></p> <p><b><u>Short-term:</u></b></p> <ul style="list-style-type: none"> <li>• Review environmental legislation; update or repeal outdated environmental legislation and make it more coherent.</li> <li>• Improve private sector participation in the elaboration of environmental policy.</li> <li>• Accelerate the move towards integrated permitting and the use of BAT.</li> <li>• Conduct more explanatory activity about the Environmental Assessment Code.</li> <li>• Establish an electronic database of permits accessible to all relevant departments of the MEPA, including the DES.</li> <li>• Establish a fixed permit duration before re-application.</li> <li>• Improve consultation with the DES on important laws and permit applications.</li> <li>• Make permitting fees more proportionate and tiered based on activity size and complexity.</li> </ul> <p><b><u>Medium-term:</u></b></p> <ul style="list-style-type: none"> <li>• Continue progress towards digitised permitting.</li> <li>• Consider introducing a fit and proper test obligation for natural resource use licence bidders and make the bidding process more transparent.</li> <li>• Address complementary issues with stakeholder engagement, including the quality of information provision, record keeping and follow-up, accessibility, public awareness and management of grievance redress mechanisms.</li> </ul>
<b>INSTITUTIONAL FRAMEWORK</b>	<p><b>POSITIVE CHARACTERISTICS</b></p> <ul style="list-style-type: none"> <li>• Policy making and control activities are separated, with a separate environmental inspectorate (the DES).</li> <li>• The DES has regional branches.</li> <li>• The DES has been improving and digitising its information management, and plans to introduce an e-system for inspection management and risk qualification.</li> <li>• The Department of Environmental Damage Remedial Measures has been established to help implement the Law on Environmental Liability.</li> <li>• The EIEC facilitates environmental education and awareness raising, supports the public's participation in decision making and ensures access to information.</li> <li>• The DES's equipment has been recently updated.</li> </ul> <p><b>GAPS</b></p> <ul style="list-style-type: none"> <li>• A high number of separate entities within the MEPA collaborate on environmental compliance assurance.</li> <li>• Institutional co-ordination among the environmental compliance assurance entities is insufficient.</li> </ul>



CAS SYSTEM COMPONENT	POSITIVE CHARACTERISTICS, GAPS AND RECOMMENDATIONS
	<ul style="list-style-type: none"> <li>• Compliance assurance institutions lack qualified staff.</li> <li>• The DES lacks automation for several key processes and has an obsolete database for tracking violations.</li> <li>• The DES lacks equipment, especially field and laboratory sampling equipment and electronic technology.</li> </ul> <p><b>RECOMMENDATIONS</b></p> <p><b><u>Short-term:</u></b></p> <ul style="list-style-type: none"> <li>• Conduct a structural review of the various bodies involved in environmental compliance assurance and combine some of them for a more streamlined structure.</li> <li>• Improve co-ordination among the environmental compliance assurance entities, especially a process for the DES to comment on important environmental legislation and permits.</li> <li>• Put in place a comprehensive training programme, including training for new inspectors, skills maintenance and upskilling.</li> </ul> <p><b><u>Medium-term:</u></b></p> <ul style="list-style-type: none"> <li>• Improve information management at the DES for key processes, including inspection planning and results, processing of complaints and tracking of responses to violations.</li> <li>• Address the lack of qualified staff and high turnover in environmental compliance assurance institutions through better financial incentives.</li> <li>• Improve equipment of the DES, especially field and laboratory sampling equipment and electronic technology.</li> </ul>
<b>MONITORING</b>	<p><b>POSITIVE CHARACTERISTICS</b></p> <ul style="list-style-type: none"> <li>• A variety of monitoring methods are used.</li> <li>• Planned inspections are based on a risk methodology.</li> <li>• The DES publishes inspection plans and results on line.</li> <li>• The DES has inspection guidelines, which set out inspection procedures, and is also developing inspection checklists.</li> <li>• The DES undertakes environmental audits to thoroughly analyse an operator's compliance and the effectiveness of EMS.</li> <li>• There are laboratories within the DES and the NEA.</li> <li>• The NEA publishes monitoring information on line, as well as quarterly and monthly information bulletins.</li> <li>• The NEA receives capacity-building support from international partners.</li> <li>• The government has been increasing the number of environmental monitoring stations.</li> <li>• The government is improving online monitoring systems, including the air quality monitoring network and a database of forestry resources.</li> <li>• Companies are required to submit yearly self-monitoring reports, with a number of large companies required to do continuous self-monitoring.</li> <li>• The DES has a hotline, an SMS and an e-mail service for public alerts.</li> <li>• The DES has a 24/7 response team.</li> <li>• Civil society is active in environmental monitoring.</li> </ul> <p><b>GAPS</b></p> <ul style="list-style-type: none"> <li>• The number of environmental inspections carried out yearly is low.</li> <li>• The length of an inspection can be long, reaching up to 120 days on site.</li> <li>• Inspection reports can be too long, reaching up to 100 pages.</li> <li>• NEA laboratories lack capacity and human resources.</li> <li>• Many companies do not submit continuous self-monitoring reports or do so late.</li> <li>• There is no PRTR.</li> <li>• The number of environmental monitoring stations is insufficient.</li> <li>• Monitoring of groundwater quality is insufficient.</li> </ul> <p><b>RECOMMENDATIONS</b></p> <p><b><u>Short-term:</u></b></p> <ul style="list-style-type: none"> <li>• Examine and address the low number of inspections carried out yearly to at least cover the high-risk and medium-risk permitted entities.</li> <li>• Shorten an inspection's time on site to a necessary minimum (two to five days) to use inspectors' time more effectively.</li> </ul>

CAS SYSTEM COMPONENT	POSITIVE CHARACTERISTICS, GAPS AND RECOMMENDATIONS
	<ul style="list-style-type: none"> <li>• Shorten the length of inspection reports to a necessary minimum (ideally, two to ten pages).</li> <li>• Establish a process for tracking how the DES addresses received alerts.</li> <li>• Ensure the risk assessment methodology for inspections has flexibility.</li> </ul> <p><b><u>Medium-term:</u></b></p> <ul style="list-style-type: none"> <li>• Improve the equipment and increase the number of staff of the NEA laboratories.</li> <li>• Identify the needed number of environmental monitoring stations, especially for groundwater monitoring, and take steps to increase the number, including through fundraising.</li> <li>• Encourage companies to submit required continuous self-monitoring reports on time.</li> <li>• Expand the mandate of the 24/7 response team to handle serious environmental incidents and ensure appropriate training.</li> </ul> <p><b><u>Long-term:</u></b></p> <ul style="list-style-type: none"> <li>• Establish a PRTR building on existing electronic systems.</li> </ul>
ENFORCEMENT	<p><b>POSITIVE CHARACTERISTICS</b></p> <ul style="list-style-type: none"> <li>• Georgia uses a variety of penalties along the enforcement pyramid.</li> <li>• The stand-alone Law on Environmental Liability, adopted in 2021, is establishing an environmental liability regime.</li> <li>• Environmental fine levels have been slightly increased recently.</li> <li>• Companies are warned about the environmental penalties they will receive.</li> <li>• Environmental crime legislation is undergoing amendments to establish harsher penalties.</li> </ul> <p><b>GAPS</b></p> <ul style="list-style-type: none"> <li>• The Administrative Offences Code and the Criminal Code are outdated.</li> <li>• There is no single comprehensive enforcement policy guidance document outlining available penalties.</li> <li>• Georgia does not make enough use of penalties other than administrative fines.</li> <li>• There is reluctance to undertake criminal action against serious crime.</li> <li>• Fine levels are low and are not index-linked to inflation; in some cases, they do not reflect the severity of an offence.</li> <li>• The Law on Environmental Liability has divergences from the EU ELD, and awareness about it is low.</li> <li>• The rate of collection of administrative fines is low.</li> </ul> <p><b>RECOMMENDATIONS</b></p> <p><b><u>Short-term:</u></b></p> <ul style="list-style-type: none"> <li>• Adopt a comprehensive enforcement policy guidance document outlining penalties against non-compliance and make it publicly available.</li> <li>• Update the Administrative Offences Code and the Criminal Code.</li> <li>• Update levels of environmental fines and index-link them to inflation; differentiate fines based on severity of an offence and address low fine collection rates.</li> <li>• Address the divergences of the Law on Environmental Liability with the EU ELD and raise awareness about it.</li> </ul> <p><b><u>Medium-term:</u></b></p> <ul style="list-style-type: none"> <li>• Make use of a wider array of penalties, including enforcement undertakings, naming and shaming, and mutually agreed plans to improve technology.</li> <li>• Examine why criminal enforcement tools are not used and address the findings.</li> <li>• Provide training on environmental matters to the police, prosecutors and judges.</li> <li>• Consider having prosecutors that specialise in environmental matters.</li> </ul> <p><b><u>Long-term:</u></b></p> <ul style="list-style-type: none"> <li>• Establish financial security mechanisms for environmental liability, including insurance.</li> </ul>
COMPLIANCE PROMOTION INSTRUMENTS	<p><b>POSITIVE CHARACTERISTICS</b></p> <ul style="list-style-type: none"> <li>• The MEPA and its DES publish a variety of information relevant for compliance assurance on their websites, including environmental regulations, yearly reports and articles to raise awareness.</li> </ul>

CAS SYSTEM COMPONENT	POSITIVE CHARACTERISTICS, GAPS AND RECOMMENDATIONS
	<ul style="list-style-type: none"> <li>• The DES also provides information through a hotline and a Facebook page.</li> <li>• A separate MEPA agency, the EIEC, shares information on line, raises awareness and organises training for different stakeholders.</li> </ul> <p><b>GAPS</b></p> <ul style="list-style-type: none"> <li>• Information sharing is mostly responsive rather than proactive.</li> <li>• The DES raises little awareness about environmental regulations and compliance outside of sharing information on line.</li> <li>• The DES undertakes little training on environmental regulations and compliance other than contributing to training organised by the EIEC.</li> <li>• Some private sector representatives lack understanding of important environmental legislation.</li> </ul> <p><b>RECOMMENDATIONS</b></p> <p><b><u>Short-term:</u></b></p> <ul style="list-style-type: none"> <li>• Increase and vary the types of awareness raising about environmental regulations and compliance by the DES.</li> <li>• Increase funding and staffing of the EIEC so it can raise more awareness and do more training.</li> <li>• Increase awareness raising and training about new legislation, especially for the private sector.</li> </ul> <p><b><u>Medium-term:</u></b></p> <ul style="list-style-type: none"> <li>• Adopt a more proactive information-sharing approach.</li> </ul>

Source: Author's own elaborations.

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## Annex A. The main legislation in the area of environmental compliance assurance in Georgia

Document	Date	Description
<b>Framework laws</b>		
<b>Law of Georgia on Environment Protection</b>	1997	<p>This law regulates legal relations in the field of environmental protection and the use of natural resources between state bodies and natural and legal persons (regardless of their ownership and organisational and legal form) throughout Georgia, including its territorial waters, airspace, continental shelf and exclusive economic zone.</p> <p>It establishes the main environmental principles; the rights and obligations of citizens in the field of environmental protection; provisions for education and scientific research in the field of environmental protection; provisions for state environmental management, including responsibilities (e.g. of the ministry); the economic framework in the field of environmental protection; and informational support for environmental protection. It sets out the types of required environmental standards, environmental requirements for waste, environmental considerations for decisions on and when carrying out activities, environmental emergencies, protection of natural ecosystems and protected territories. It also sets out provisions in regard to the global and regional management of environmental protection, state control in the field of environmental protection and the use of natural resources, and liability for environmental damage and compensation of damage.</p>
<b>Georgian Constitution</b>	1995	<p>This law sets out the right to environmental protection in its article 29. In addition to the right to live in a healthy environment, it includes the right to receive full information about the state of the environment, to care for environmental protection and to participate in the adoption of decisions related to the environment.</p>
<b>Laws on EIA and permitting</b>		
<b>Law on Industrial Emissions</b>	2023	<p>The aim of the law is to establish integrated environmental permitting in Georgia.</p>
<b>Order of the Minister of Environmental Protection and Agriculture of Georgia on the Approval of Rules for Developing Environment Audit Reports and Making Decisions on the Continuation of Current Activities</b>	2018	<p>This regulation was adopted in 2018 to implement the provisions of the 2017 Environmental Assessment Code. It requires development of environment audit reports, their examination by the Ministry of Environment, and taking decisions on the continuation of operations of economic activities, which started before 1 June 2015 and for which the ministry had not granted an environmental permit.</p>
<b>Environmental Assessment Code</b>	2017	<p>This Code regulates matters related to strategic documents and public or private activities that may have a significant impact on the environment, human life and/or health. The scope of the Code comprises procedures for EIA, SEA, transboundary EIA and public participation in decision making.</p>



Document	Date	Description
<b>Resolution of the Government of Georgia on the Approval of Environmental Technical Regulations</b>	2014	This document approves the: <ul style="list-style-type: none"> <li>• technical regulations for discharge of industrial and non-industrial wastewater into surface water bodies (Annex 1)</li> <li>• technical regulations for water removal from a surface water body (Annex 2)</li> <li>• technical regulations for activities polluting the air with harmful substances (Annex 3)</li> <li>• the form of the technical regulation for water removal from the surface water body (Annex 4).</li> </ul>
<b>Law of Georgia on Licences and Permits</b>	2005	This law governs activities or actions that represent a major hazard to human life or health, involve state or public interests of special importance, or are related to the use of state resources. It regulates areas governed by licences and permits, defines a comprehensive list of the types of licences and permits, and establishes the procedures for issuing, changing and revoking licences and permits.
<i>Laws on the institutional framework for compliance assurance</i>		
<b>Resolution of the Georgian Government on the Rules for Exercising State Control by the Department of Environmental Supervision, State Subordinate Agency of the Ministry of Environment and Natural Resource Protection of Georgia</b>	2015	This regulation establishes the basic principles, requirements and procedures for state control in the field of environmental protection and the use of natural resources, including inspection and related case management by the DES of the MEPA. The purpose is to ensure consistent, proportionate, fair, results-oriented and effective activities of the DES. This regulation does not apply to activities related to oil and gas operations, including extraction, processing, transportation, etc., which are regulated by the Law of Georgia on Oil and Gas.
<b>Order of the Minister of Environment and Natural Resource Protection of Georgia no. 26, on the Approval of the Statute of the Department of Environmental Supervision, State Substitution of the Ministry of Environment Protection and Agriculture of Georgia</b>	2013	The Order sets out the principles of work of the DES, its scope of activity and the main tasks, its rights and duties, its system, structure and administration, the tasks of its different divisions, management, state control, funding, reorganisation and liquidation.
<i>Laws on monitoring of compliance</i>		
<b>Order of the Minister of Environmental Protection and Agriculture of Georgia on the Approval of the Methodology for Determining the Priorities for Planning the Inspection of Regulated Facilities</b>	2019	The Order aims to introduce a systemic approach to planning inspections and to assist the DES with setting priorities for scheduled inspections of regulated entities. It sets out the types and frequency of planned inspections, the general system for planning inspections of regulated entities, the content of annual inspection plans, the planning stages for inspections, the requirement to make the annual inspection plan public, the risk assessment system, stages of determining inspection priorities, criteria for environmental and facility operational risks for a permitted regulated entity, criteria for assessing environmental and facility-related risks for an entity with a special timber production licence, environmental and facility risk assessment criteria for an entity with a special hunting licence, and environmental and facility risk assessment criteria for a fishing facility.
<b>Resolution of the Government of Georgia on the Approval of Technical Regulations on Self-Monitoring and Reporting Procedure for Emissions of Harmful Substances from Stationary Sources of Pollution</b>	2013	The goal of these Technical Regulations is to establish the procedure for self-monitoring and reporting of emissions of harmful substances into the ambient air from stationary sources of pollution during the performance of activities by natural and legal persons.

Document	Date	Description
<i>Laws on penalties for non-compliance with environmental regulations</i>		
<b>Law of Georgia on Environmental Liability</b>	2021	This law regulates the prevention of significant damage to the environment, and if this is not possible, mitigating the significant damage to the environment, and measures to be taken in case of damage. It lists exceptions, such as pollution by diffusion and pollution by nuclear radiation. It aims to establish a system of environmental responsibility based on the polluter-pays principle.
<b>Criminal Code of Georgia</b>	1999	The Criminal Code of Georgia establishes the grounds for criminal liability, and determines which acts are criminal and appropriate punishment. Chapter XXXVI covers "Crimes against the rule of environmental protection".
<b>Georgian Code of Administrative Offences</b>	1984	The Code of Georgia on Administrative Offences determines the actions or inaction that constitute an administrative offence, as well as administrative penalties, the procedure for their imposition and the administrative bodies (officials) authorised to impose administrative penalties on perpetrators.
<i>Main sector-specific laws</i>		
<b>Forest Code of Georgia</b>	2020	
<b>Draft Law on Water Resource Management</b>	Draft (2019)	
<b>Draft Law of Georgia in Biological Diversity</b>	Draft (2019)	
<b>Law of Georgia on Import, Export and Transit of Hazardous Waste</b>	2016	
<b>Waste Management Code of Georgia</b>	2015	
<b>The Law on Ambient Air Protection</b>	1999	
<b>Law of Georgia on Oil and Gas</b>	1998	
<b>Law of Georgia about Water</b>	1997	
<b>Law of Georgia on Entrails (Subsoil)</b>	1996	
<b>Law of Georgia on Soil Protection</b>	1994	

Source: Author's own elaboration based on legislation of Georgia.

## Annex B. International environmental agreements to which Georgia is party

Agreements	Date of ratification/accession
Convention on the Protection of the Black Sea Against Pollution	1993
Convention on Biological Diversity	1994
United Nations Framework Convention on Climate Change	1994
Convention on International Trade in Endangered Species of Wild Fauna and Flora	1996
Convention on Wetlands of International Importance especially as Waterfowl Habitat	1996
Convention on Long-range Transboundary Air Pollution	1999
Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal	1999
United Nations Convention to Combat Desertification	1999
Convention on the Conservation of Migratory Species of Wild Animals	2000
Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention)	2000
Convention on Persistent Organic Pollutants (POPs)	2006
Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade	2006
Convention on the Conservation of European Wildlife and Natural Habitats	2008
European Landscape Convention	2010
Agreement Between the Republic of Georgia and the International Atomic Energy Agency for the Application of Safeguards in Connection with Treaty on the Non-Proliferation of Nuclear Weapons (INFCIRC/617)	2003
Convention on the Physical Protection of Nuclear Material (INFCIRC/274/Rev.1)	2006
Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management (INFIRC/546)	2009
Convention on Early Notification of a Nuclear Accident (INFCIRC/335)	2010

Source: (Government of Georgia, 2017<sup>[18]</sup>).

## Annex C. Excerpts on the EU ELD and the IED from the Annex to Chapter 3 on the Environment of the Georgia-EU Association Agreement

### **Directive 2004/35/EC of the European Parliament and of the Council of 21 April 2004 on environmental liability with regard to the prevention and remedying of environmental damage**

The following provisions of that Directive shall apply:

- adoption of national legislation and designation of competent authorities (Article 11);

Timetable: those provisions of that Directive shall be implemented within three years of the entry into force of this Agreement.

- establishment of rules and procedures aimed at preventing and remedying of damage to the environment (water, land, protected species and natural habitats) based on the polluter-pays principle (Articles 5, 6, 7, Annex II)

Provisions related to the evaluation of remedial options by using BAT shall be implemented within the same timeframe as indicated in the respective directives.

- establishment of strict liability for dangerous occupational activities (Article 3(1)(a) and Annex III). To read in conjunction with respective directives indicated in this Chapter;
- establishment of obligations for operators to take the necessary prevention and remediation measures including liability for costs (Articles 5, 6, 7, 8, 9 and 10)
- establishment of mechanisms for affected persons including environmental NGOs to request action by competent authorities in case of environmental damage including independent review (Articles 12 and 13).

Timetable: those provisions of that Directive shall be implemented within four years of the entry into force of this Agreement.

### **Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions**

The following provisions of that Directive shall apply:

- adoption of national legislation and designation of competent authority/ies;

Timetable: those provisions of that Directive shall be implemented within four years of the entry into force of this Agreement.

- identification of installations that require a permit;

Timetable: those provisions of that Directive shall be implemented within six years of the entry into force of this Agreement. For installations of points 6(3), 6(4), and 6(6) of Annex I of that Directive the different thresholds will be agreed upon by the Association Council. A proposal for such a decision will be submitted to the Association Council within four years from the entry into force of the Agreement.

- implementation of an integrated permit system (Articles 4 to 6, 12, 17(2), 21 and 24 and Annex IV);

Timetable: those provisions of that Directive shall be implemented within six years of the entry into force of this Agreement; for installations of points 6(3), 6(4), and 6(6) of Annex I of that Directive within maximum six years after/from the Association Council decision.

- establishment of a compliance monitoring mechanism (Articles 8, 14(1)(d) and 23(1));

Timetable: those provisions of that Directive shall be implemented within six years of the entry into force of this Agreement.

- implementation of BAT taking into account the BAT conclusions of the BREFs (Article 14(3) to (6) and Article 15(2) to (4));

Timetable: those provisions of that Directive shall be implemented within 12 years of the entry into force of this Agreement.

- establishment of emission limit values for combustion plants (Article 30 and Annex V);

Timetable: those provisions of that Directive shall be implemented within four years of the entry into force of this Agreement for new installations and within 12 years of the entry into force of this Agreement for existing installations.

- preparation of transitional national plans to reduce total annual emissions from existing plants (optional to setting emission limit values for existing plants) (Article 32).

Timetable: those provisions of that Directive shall be implemented within 12 years of the entry into force of this Agreement.



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## The environmental compliance assurance system in Georgia: Current situation and recommendations

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Ensuring compliance with environmental regulations is key for countries to achieve their environmental goals and reduce pollution.

An effective environmental compliance assurance system (CAS) comprises good-quality environmental regulations and permits; an adequate institutional arrangement, including an environmental inspectorate; robust monitoring of compliance; functional enforcement action and proactive promotion of voluntary compliance.

The goal of the document is to help environmental authorities of Georgia prioritise and plan activities aimed at strengthening environmental compliance. It describes the various components of Georgia's CAS, identifies their strengths and weaknesses, and provides recommendations for further improvement.

This report is part of a series of environmental CAS country reviews undertaken within the EU-funded EU4Environment programme that promotes a green economy and environmental improvement in the EU's Eastern Partnership countries.

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