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**EU4Environment**  
Green Economy in Eastern Partner Countries

## Applying the Polluter-Pays Principle to environmental compliance assurance in the Eastern Partnership

A regional seminar with Eastern Partnership countries

Summary report

Monday 11 March 2024 | 9:00 – 13:00 (CET) | online

This summary report, the seminar agenda and the presentations made at the meeting are available at:  
<https://www.eu4environment.org/events/applying-the-polluter-pays-principle-to-environmental-compliance-assurance-in-the-eastern-partnership/>

The “European Union for Environment” (EU4Environment) aims to help the Eastern Partnership countries preserve their natural capital and increase people’s environmental well-being, by supporting environment related action, demonstrating and unlocking opportunities for greener growth, and setting mechanisms to better manage environmental risks and impacts. The Action is funded by the European Union and implemented by five Partner organisations: OECD, UNECE, UNEP, UNIDO and the World Bank based on a budget of some EUR 20 million. The Action implementation period is 2019-2024. For further information contact: [EU4Environment@oecd.org](mailto:EU4Environment@oecd.org)

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## Summary

### Introduction

The fourth and final EU4Environment regional meeting with the Eastern Partnership countries on environmental compliance assurance focused on “Applying the Polluter-Pays Principle to environmental compliance assurance in the Eastern Partnership” and took place on 11 March 2024 online.

The meeting gathered approximately 50 participants, including representatives of environmental regulators and inspectorates from the Eastern Partnership countries and OECD economies, representatives of the European Union Network for the Implementation and Enforcement of Environmental Law (IMPEL), the European Commission and the OECD Secretariat as well as civil society representatives.

The meeting discussed environmental liability provisions for environmental damage in Armenia, Georgia and Moldova. It also took stock of the recent changes to environmental laws and institutions, promotion, monitoring and enforcement of compliance in the Eastern Partnership countries.

### Strengthening environmental liability provisions in the Eastern Partnership

- The **Polluter Pays Principle (PPP)** is the principle that the entity which is responsible for pollution must bear the cost of dealing with it through reducing, preventing or eliminating it. The PPP promotes a level playing field among companies by preventing companies that do not internalise the cost of dealing with their pollution from having a competitive advantage.
- The PPP is formally embedded in liability laws of many EU countries and EU policy, including the EU Environmental Liability Directive (ELD). The ELD states that entities which cause damage to protected species and natural habitats, water and land or create an imminent threat of such damage must pay to prevent it or, if that is not possible, pay for its remediation. The state or citizens do not have a right to seek compensation from the polluter under the ELD.
- Armenia, Georgia and Moldova are at different stages of developing environmental liability provisions of polluters for environmental damage caused:
  - **Armenia** has two categories of liability laws: i) direct laws, which regulate the use of specific types of natural resources 2) indirect laws, which set out consequences for breaching direct laws (e.g., payment of damages). Environmental damage is usually identified based on the degree to which an emission limit level has been exceeded. Armenia has provisions for the creation of environmental funds for protection of natural resources, to be financed through payments from resource users. Only the Subsoil Code mentions assessment of environmental damage, but it provides very little detail on how this assessment is to be undertaken and the scientific criteria to which it should refer. There is no common definition of environmental liability in Armenia’s legislation, which might in the future be clarified in Armenia’s global environmental strategy.
  - **Georgia’s** Law on Environmental Liability was adopted in 2021 and entered into force in July 2022. It aims to transpose the EU ELD into Georgian law. It deals with prevention and mitigation of environmental damage and specifies measures to be taken in the event of environmental damage such as remediation and/or payment of compensation. The law also establishes the need for financial security instruments (insurance or bank guarantees) to be in place by 2026. It also establishes an environmental programme (fund), paid into by the state and polluters. The law sets out fines of GEL 1 000-80 000 (EUR 343-27 477) to punish polluters for non-compliance such as failure to notify authorities about environmental damage. Georgia’s Law on Environmental Liability will be further refined to bring it in line with Georgia’s new laws “On water resources management” (adopted in 2023) and on “On biodiversity” (forthcoming).

All secondary legislation has been adopted except for a regulation “On the rule of financial assurance of the risk of harming the environment by carrying out activities that are particularly dangerous for the environment”, which is expected to be adopted no later than September 2025.

The law is already being applied to a case of a company carrying out a particularly dangerous activity, which has exceeded wastewater discharge limits, leading to destruction of fish. The company’s draft remediation plan is currently being reviewed.

The main flaw of the current law, according to Georgia, is that its criteria for determining significant damage to biodiversity, water and land are somewhat different and stricter than the EU ELD.

- **Moldova** has two types of administrative law-based environmental liability: i) remediation of damage caused to the environment; ii) monetary compensation to the state paid into a fund used for environmental protection programmes. The cost of damage is assessed on the basis of equations and formulas set out in methodologies rather than through a technical assessment based on measurable data as is done under the ELD. Liability laws provide little detail on how remediation is to be achieved and to which level. Moldova is developing a draft Law on Environmental Liability focusing on “restoration in kind”. In addition, Moldova’s Ministry of Environment has begun discussions on financial security with the Ministry of Finance and is looking into ways to update environmental damage legislation. Moldova’s sectoral laws would need to be updated to reflect the PPP.
- OECD’s **comparative analysis** of environmental liability legislation in Armenia, Georgia and Moldova highlighted that:
  - While Georgia’s liability legislation has an explicit conception of PPP, Armenia and Moldova have an implicit one as only some of their laws refer to possible liability of polluters for damage prevention, compensation and remediation.
  - The need for compensation for damage caused is a prominent feature in all the three jurisdictions, but it is not an ELD requirement. In Georgia, this requirement builds on the ELD requirement for remediation, but in Armenia and Moldova there are references to compensation when emission pollution limits are exceeded. The methodologies/formulas for calculating compensation amounts are theoretical and are proxies for a scientific determination. They are therefore unlikely to accurately reflect the extent of environmental damage caused.
  - Funds play a central role in all the three jurisdictions, but not in the ELD. The concern in the EU is that funds are likely to run counter to the PPP and could breach it when they subsidise the prevention or remediation cost. An example is when the polluter does not bear the full cost of the damage, and the contributors to the fund end up bearing the margin. Funds must be structured in a way that ensures their compatibility with the PPP.
- Participants mentioned that environmental liability legislation setting out compensation needs to clearly specify “to whom, why, how much and for what purpose” it is paid.
- Participants expressed the need for further **capacity building on environmental liability**. Specifically, Georgia is interested in study tours and training programmes on EU ELD practices and highlighted the importance of co-operation with international partners in this area. In addition, participants voiced a need for a common definition of key topics such as environmental liability.

### ***Taking stock of achievements and challenges in environmental compliance assurance in the Eastern Partnership***

Participating Eastern Partnership countries provided updates on achievements, challenges and capacity building needs for strengthening environmental compliance assurance systems, summarised in Annex I.

- There are several **overarching achievements and challenges** to environmental compliance assurance in the Eastern Partnership countries. Achievements include creation of new inspectorates and adoption of risk methodologies, legislative developments and ongoing revisions of penalties, and increased attention to awareness-raising. Insufficient institutional co-operation and capacities, and heavy reliance on administrative fines are some of the shared drawbacks.
- The **EU4Environment: Green Economy Programme** has supported environmental compliance assurance systems and liability regimes in the Eastern Partnership countries through a variety of analytical and capacity building activities both at regional and at country level. It had fruitful co-operation with the IMPEL network and the EU Forum of Judges for the Environment (EUFJE).
- Participants highlighted the importance of **public participation and NGOs** as one of the main levers for handling environmental issues, with the Aarhus Convention providing a sound toolkit.
- The **IMPEL** network, with which EU4Environment has been closely co-operating, presented several key projects from its 2025-27 work programme along its five main areas of work: i) industry and air (e.g., the EU IED); ii) waste and transfrontier shipment of waste (TFS); iii) water and land; iv) nature protection; v) cross-cutting issues. IMPEL expressed readiness for further co-operation with the OECD.
- The **European Commission (EC)** has been providing regional and bilateral support to the Eastern Partnership countries to help them achieve higher environmental standards. This support has included political guidance, benchmarks, examples of legislation (among them the EU ELD), resources and networks.
- The EC reiterated its intention to continue supporting the Eastern Partnership countries with strengthening their environmental compliance assurance systems and with approximating EU environmental legislation, especially in view of the EU candidate status of some countries. The EU economic and investment plan for Eastern Partnership countries aims to mobilise up to EUR 17 billion for priority projects and investments to increase people's well-being, improve economic performance and promote a green transition.
- The EC has expressed appreciation to the OECD and IMPEL for their analytical inputs.

#### *Possible future areas of work*

- Participants discussed preferred areas and format of **any possible future support from the international community to environmental compliance assurance in the Eastern Partnership countries**.
- According to the results, the priority environmental medium is land, the priority economic sector is mining, the priority topic is environmental liability of polluters for the damage caused, and the priority format of capacity building is study visits abroad. Detailed results of the polls are provided in Annex II.

**ANNEX I: Achievements, challenges and capacity building needs for strengthening environmental compliance assurance systems in the Eastern Partnership countries**

Achievements	Challenges	Capacity building needs
<b>Armenia</b>		
<ul style="list-style-type: none"> <li>• Progress with implementing its Comprehensive and Enhanced Partnership Agreement (CEPA) with the EU in the areas of transboundary co-operation, protection of human health, transport (e.g., development of e-mobility), energy efficiency, water, environmental education, biodiversity, sustainable finance, green investment and procurement</li> <li>• Armenia's Environmental Protection and Mining Inspection Body (EPMIB) has begun developing co-operation with education institutions to exchange information and train specialists</li> </ul>	<ul style="list-style-type: none"> <li>• Development of sustainable finance and green investment for transitioning to a green economy</li> <li>• Lack of public participation in environmental policy</li> <li>• Lack of flexibility of the risk assessment system for planning inspections</li> <li>• Lack of an electronic system of control (e.g., information on operators, risk evaluation)</li> </ul>	<ul style="list-style-type: none"> <li>• Willingness to co-operate further on identifying and resolving environmental problems in Armenia</li> </ul>
<b>Georgia</b>		
<ul style="list-style-type: none"> <li>• Adoption of the Law on Industrial Emissions in 2023</li> <li>• Adoption of the Law on Water Resources Management in 2023</li> <li>• The Department of Environmental Supervision (DES) of the Ministry of Environmental Protection and Agriculture (MEPA) plans to increase the number of inspectors to support implementation of the new laws</li> <li>• The DES is developing proposals for amendments to the Code of Administrative Offences and the Criminal</li> </ul>	<ul style="list-style-type: none"> <li>• Lack of human, technical and financial resources to keep up with the legislative changes</li> <li>• Low administrative capacity for effective enforcement</li> <li>• Lack of digitalisation of the inspection process</li> <li>• Staff outflow due to low salary rates</li> </ul>	<ul style="list-style-type: none"> <li>• Capacity building (training, equipment) for DES</li> <li>• Education and training on the EU IED</li> <li>• Support with development of a general inspection strategy of the DES in view of the Law on Industrial Emissions</li> <li>• Establishment of a unit within the DES for controlling ozone depleting substances, greenhouse gases and F-gases</li> <li>• Improvement of an electronic system on management of F-gases</li> </ul>

<p>Code regarding fluorinated gases (F-gases) and integrated permits</p> <ul style="list-style-type: none"> <li>• The DES plans to proactively publish information on inspections on an online platform, expected to be launched in 2025, according to the 2024-2025 Open Government Action Plan of Georgia</li> <li>• The DES is setting up an electronic system for decisions and permits, to be accessible to all relevant agencies</li> <li>• The DES plans to increase salaries and financial incentives to retain qualified staff</li> </ul>		<ul style="list-style-type: none"> <li>• Study tours and training programmes on EU ELD practices</li> </ul>
<b>Moldova</b>		
<ul style="list-style-type: none"> <li>• Approval of a law on industrial emissions</li> <li>• Ongoing revisions to the Contravention Code and the Criminal Code</li> <li>• Plans to review instructions for calculating environmental damage</li> </ul>	<ul style="list-style-type: none"> <li>• Insufficient sanctions</li> <li>• Outdated instructions for estimating environmental damage which do not reflect the damage</li> </ul>	<ul style="list-style-type: none"> <li>• Wish for further co-operation</li> </ul>

## ANNEX II: Results of digital polls on possible future support from the international community to environmental compliance assurance in the Eastern Partnership countries

1. **Which environmental medium do you view as a priority for addressing non-compliance with environmental regulations** (19 respondents):
  1. Land (53%)
  2. Water (47%)
  3. Air (42%)
  4. Wildlife (21%)
  5. Waste (16%)
  
2. **Which economic sector do you view as a priority for addressing non-compliance with environmental regulations** (20 respondents):
  1. Mining (75%)
  2. Heavy industry (e.g., metallurgy, chemical, fertilisers, cement) (65%)
  3. Oil/gas extraction (45%)
  4. Construction (35%)
  5. Agriculture and food production (25%)
  - Forestry and fishing (25%)
  6. Energy production (20%)
  7. Transport (15%)
  8. Small- and medium-sized enterprises (10%)
  9. Light manufacturing industry (e.g., textile, plastics, technology) (5%)
  10. Food retail (0%)
  - Other (0%)
  
3. **Which area of environmental compliance assurance do you view as a priority for future international support projects** (17 respondents):
  1. Environmental liability of polluters for damage caused (59%)
  2. Planning and carrying out environmental inspections (53%)
  3. Promotion of voluntary compliance (e.g., guidance, information, training on regulations and compliance for the private sector and the public) (41%)
  - Skills of prosecutors to process environmental cases (41%)
  - Financial security instruments for compensating for environmental damage (41%)
  4. Skills of environmental inspectors (35%)
  5. Self-monitoring and reporting by regulated entities including Pollutant Release and Transfer Registers (29%)
  6. Revision of penalties for non-compliance (24%)
  7. Information systems and equipment of inspectorates (18%)
  8. Other (12%)
  
4. **Which format of support on environmental compliance assurance will you find the most helpful from the international community** (17 respondents):
  1. Study visits abroad (82%)
  2. In-depth course on selected compliance-related topics (e.g., carrying out inspections, risk-based assessment of the regulated community, self-reporting, designing environmental liability legislation etc.) (65%)

3. Analysis of how the country's environmental compliance assurance system corresponds to the OECD Recommendation on Environmental Compliance Assurance (53%)
4. Capacity building seminars (47%)
5. Analytical reports on an aspect of environmental compliance assurance (35%)
6. Analysis of laws/methodologies (24%)
7. Other (0%)