



ANALYSIS OF GAPS BETWEEN NATIONAL LEGISLATION OF  
**GEORGIA**  
and World Bank Environmental and Social Framework

June 2020



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1818 H Street NW, Washington DC 20433  
Telephone: 202-473-1000;  
Internet: [www.worldbank.org](http://www.worldbank.org)

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## Acronyms and Abbreviations

<b>EA</b>	Environmental Assessment
<b>EBRD</b>	European Bank for Reconstruction and Development
<b>EIA</b>	Environmental Impact Assessment
<b>ES</b>	environmental and social
<b>ESF</b>	Environmental and Social Framework
<b>ESMS</b>	Environmental and Social Management System
<b>ESS</b>	Environmental and Social Standard
<b>EU</b>	European Union
<b>GBV</b>	gender-based violence
<b>GRC</b>	Grievance Redress Commission
<b>HIV</b>	Human Immunodeficiency Virus
<b>IDP</b>	internally displaced persons
<b>IFC</b>	International Finance Corporation
<b>IFI</b>	International Financial Institution
<b>IVS</b>	International Valuation Standards
<b>JICA</b>	Japan International Cooperation Agency
<b>MEPA</b>	Ministry of Environmental Protection and Agriculture
<b>MIGA</b>	Multilateral Investment Guarantee Agency
<b>MoRDI</b>	Ministry of Regional Development and Infrastructure
<b>OGP</b>	Open Government Partnership
<b>OHS</b>	Occupational Health and Safety
<b>OP</b>	Operational Policy
<b>PIU</b>	Project Implementing Unit
<b>RAP</b>	Resettlement Action Plan
<b>SEA</b>	Strategic Environmental Assessment
<b>SIA</b>	Social Impact Assessment

## Executive Summary

**Over the last two decades, Georgia has made impressive progress in economic growth and reforms.** These advancements have also brought about an increase in investments and infrastructure as well as in service sectors, such as tourism, that provide a potential for future growth and welfare. Georgia's leaders and society have also recognized that the pursuit of growth depends on the sustainability of its development path. Sustainability, in turn, hinges on the protection of the country's most valuable assets –its nature, people, and cultural heritage.

**To achieve its development vision, as summarized in the “Georgia 2020” Platform and the Georgia-EU Association Agreement, Georgia needs to maintain high levels of inclusive and sustainable economic growth.** Investments in infrastructure and services that bring about job creation and poverty reduction can be more resilient in the long term if they are accompanied by a strong commitment to environmental and social sustainability. Although rich in natural resources, Georgia is grappling with a range of shocks brought about by climate change, natural disasters, and most recently the global Covid-19 pandemic, as well with incremental environmental challenges such as pollution, deforestation, and land degradation. In order to maintain the resilience of its economy and society to environmental shocks and exclusion, Georgia needs to establish and maintain strong legislation, policy, and high-capacity institutions that can uphold high standards of environmental and social sustainability in all development investments.

**This study assesses Georgia's national legislation through the lens of the World Bank's Environmental and Social Framework (ESF).<sup>1</sup>** The ESF went into effect in 2018, marking a significant step forward in environmental and social risk management in World Bank-financed projects. The ESF is closely aligned with the environmental and social policies of other international financial institutions (IFIs), such as European Bank for Reconstruction and Development (EBRD), Asian Development Bank (ADB), Kreditanstalt für Wiederaufbau<sup>2</sup> (KfW), Japan International Cooperation Agency (JICA), and has been globally recognized as a benchmark for good international practice on environmental and social sustainability.

**By providing an overview assessment of Georgia's national legislation and the ESF, the study aims to inform the preparation and implementation of future development projects in Georgia, as well as to advance dialogue with government and project implementing agencies on improvement of key environmental and social systems and the capacity for their implementation.** The overarching objective of the study is that future development projects in Georgia may contribute to a cleaner environment, to a more efficient use of resources, more climate resilient and accessible infrastructure, and safer, equitable and inclusive delivery of project benefits.

**Aligning national laws and regulations with good international practice is also expected to increase the efficiency of preparing and implementing government, IFI, and private sector-funded projects and to increase investments in the medium and long term.** IFIs apply a similar set of environmental and social requirements.<sup>3</sup>

1 <https://www.worldbank.org/en/projects-operations/environmental-and-social-framework>

2 A German state-owned development bank based in Frankfurt.

3 Some IFIs, such as the Japan International Cooperation Agency and KfW, are adopting the World Bank's ESF for their own projects. The World Bank's ESF is closely aligned with the standards of the European Bank for Reconstruction and Development and with the International Finance Corporation's Performance Standards. Georgia's commitments under the European Union Association Agreement also capture many of the areas covered by the ESF.

International private sector investors are also increasingly attentive to environmental, social, and governance indicators of private and state-owned enterprises. Adopting internationally aligned, standardized procedures across national institutions is likely to reduce the time and cost of preparing and monitoring projects funded by various IFIs, make implementation more consistent, and incentivize private sector investments by demonstrating more sustainable returns.

**The report provides an assessment of key legal and implementation gaps between Georgia’s national system and the ESF.** It highlights the areas where government and the World Bank teams should place greater attention, either due to wider gaps between national law and the ESF, or due to the nature of gaps that may cause substantial risks during the implementation of development projects. The study incorporates a broad assessment of Georgian legislation and selected ESF standards<sup>4</sup> as well as an overview of implementation and enforcement challenges. The study is not an endorsement by the World Bank management of the use of the government’s framework, but is intended to guide future project preparation, implementation, and capacity-building efforts at the legislative, policy, and institutional level in Georgia.

**Key findings from the assessment related to eight ESF Environmental and Social Standards (ESS) follow:**

- **Assessment and management of environmental and social risks and impacts:** By adopting the new Environmental Assessment (EA) Code (2017) in alignment with European Union (EU) and as part of its commitment under the Georgia-EU Association Agreement (2014), Georgia significantly advanced its legislation with regard to conducting environmental impact assessment. However, important capacity constraints remain with regard to the implementation, monitoring, and enforcement of the newly adopted EA Code. Additionally, the national framework does not incorporate requirements with regard to social impact assessment, including the screening of potential negative impacts on and ensuring equitable benefits for disadvantaged groups. This limits the potential poverty reduction outcome of development interventions.
- **Labor and working conditions:** Georgia’s Labor Code and Law on Labor Safety are aligned with the ESF’s standard for Labor and Working Conditions, but the Labor Code lacks an enforcement mechanism. Currently, labor inspection is only mandated for occupational health and safety (OHS) issues. Legal provisions on overtime work, compensation and benefits, assessment of young workers’ working conditions, and the availability of grievance mechanisms for employees need to be strengthened. With the relatively recent adoption of the Law on Labor Safety, the country also faces a steep curve in ensuring that all enterprises have adequate systems and licensed staff in place to comply with the law, and that the Labor Conditions Inspecting Department of the Ministry of Internally Displaced Persons from the Occupied Territories, Labor, Health and Social Affairs is adequately staffed to enforce it.

<sup>4</sup> The study covers ESS1: Assessment and Management of Environmental and Social Risks and Impacts; ESS2: Labor and Working Conditions; ESS3: Resource Efficiency and Pollution Prevention and Management; ESS4: Community Health and Safety; ESS5: Land Acquisition, Restrictions on Land Use and Involuntary Resettlement; ESS6: Biodiversity Conservation and Sustainable Management of Living Natural Resources; ESS8: Cultural Heritage; and ESS10: Stakeholder Engagement and Information Disclosure. ESS7: Indigenous Peoples/ Sub-Saharan African Historically Underserved Traditional Local Communities and ESS9: Financial Intermediaries are not covered due to their lower relevance to the Georgian context.

- **Resource efficiency and pollution prevention and management:** The Waste Management Code, the Law on Water, and the Law on Subsoil provide a solid framework for the management of these natural resources, however, there is room to improve management of natural resources in Georgia. Areas include: (i) adopting watershed-based planning with full consideration of sustainability, pollution control, ecosystem service provision, and the equity of access among various users; (ii) revising mining legislation to provide stronger incentives for efficiency, enhance environmental and social responsibility of developers, addressing gaps in mining waste management, and assessing the cumulative impacts of multiple individual operations from the same source; and (iii) strengthening enforcement measures and economic incentives to stimulate energy efficiency and recycling/recovery of waste.
- **Community health and safety:** National legislation addresses many aspects in this area, such as traffic management, handling of hazardous materials, setting exposure limits to various pollutants. It lacks, however, explicit provisions related to labor influx that may arise from projects requiring large-scale civil works and self-standing regulations on dam safety. These issues are anticipated to become increasingly important for Georgia if large-scale infrastructure projects, including dam construction are expected to grow.
- **Land acquisition, land use restrictions, and involuntary resettlement:** While few projects in Georgia require large-scale physical displacement, land acquisition and land use restrictions commonly occur within transport, energy, water, or municipal infrastructure projects. The cumulative economic impact of land acquisition and land-use restrictions from such projects can amount to significant economic losses for households and communities unless adequate measures are taken to compensate losses of land, property, incomes and livelihoods. This assessment finds that more robust guidance on the compensation valuation process for land, assets, loss of income and livelihoods is needed. Such guidance would ensure that the provided compensation mitigates the impacts on project-affected persons so that no one is left worse-off as a result of development operations. Guidance and regulation on land and asset valuation is also needed in order to reduce the discrepancies in the compensation methodologies used under different projects (government, private sector, and IFI-funded) and promote greater equity in the compensation process.
- **Biodiversity conservation and sustainable management of living natural resources:** Georgia has a strong regulatory framework pertaining to biodiversity conservation and use. However, the management of biodiversity is challenging outside of the formal protected areas due to both legal gaps and a lack of technical and methodological guidance. National legislation can be strengthened by explicitly introducing the concepts of ecosystem services and biodiversity offsets. Adoption of the draft law on biodiversity and the new forest code, currently under development, would be instrumental in addressing main legislative gaps.
- **Cultural heritage:** Georgia's national legislation provides a solid basis for the protection of cultural heritage, but its implementation and enforcement need to be strengthened. For example, urban and spatial planning procedures include provisions for protecting immovable cultural properties and urban heritage but leave gaps for economic development interests to prevail over the restrictions needed to maintain the aesthetic value of monuments. Instruments for stronger coordination between the State and the Apostolic Autocephalous Orthodox Church of Georgia are required to manage numerous historic monuments that remain active sites of worship and monastery premises.

- **Stakeholder engagement and information disclosure:** Key principles for stakeholder engagement and information disclosure are provided in the Constitution of Georgia, the General Administrative Code, and the EA Code. Although legislation is in place, meaningful public participation, consultations, and grievance redress systems would require additional capacity building within key institutions such as the Ministry of Environmental Protection and Agriculture (MEPA) and project implementing agencies, as well as among local government and civil society groups. Some implementation gaps that can be highlighted include: low quality of information provided to stakeholders and communities to ensure their meaningful engagement (for example, lack of comprehensive description of the scope and justification of development projects); unclear records and follow-up on feedback received during consultations; low accessibility or public awareness of available grievance redress systems; and weak capacity within project implementing entities to manage inclusive grievance redress mechanisms.

**This study provides recommendations at four levels—legislative, policy, institutional, and project:**

- **Legislative.** While Georgia has made significant progress in updating its environmental and social legislation, important legal gaps continue to exist in the areas highlighted above. Adoption of several highly relevant environmental laws, such as the new forest code, biodiversity law, water and mining legislation, energy efficiency legislation, among others would significantly strengthen the national regulatory system. The enhancement of regulations in the areas of labor and working conditions, social impact assessment, the valuation and compensation for land, property and economic losses, as well as selected aspects of community health and safety is also recommended to ensure social sustainability of future development investments.
- **Policy.** Legal advancements will not be translated into practice unless they are backed by strong political commitment and capable, empowered policy actors who can implement and enforce them. As such, the staffing and capacity building of key ministries and technical staff within policy institutions is critical. This relates both to the recruitment of more and better-qualified experts and their continuous training as well as to the availability of practical and detailed guidelines to support the implementation of laws. Such guidelines would also enable greater accountability across government and non-governmental stakeholders, as civil society, concerned communities, investors, and all interested parties can have clear expectations about the legal and policy requirements and how they should be implemented. Some of the key policy institutions, whose empowerment and capacity-building would be especially impactful on the overall environmental and social risk management, include the environmental assessment and supervision departments within MEPA and the Labor Conditions Inspecting Department within the Ministry of IDPs from the Occupied Territories, Labor, Health and Social Affairs.
- **Institutional.** The study recommends more consistent investment in the establishment of environmental and social management systems within project implementing agencies - government agencies or state-owned enterprises. Such systems can bring both greater quality and consistency in the approach to all projects, as well as cultivate greater capacity within government agencies bringing long-term benefits. Having strong internal environmental and social management systems that are aligned with good international practice can also lead

to cost efficiency for project implementing agencies. When local systems are not sufficiently advanced, projects tend to follow the policies of diverse IFIs or private sector investors, which results in a higher project preparation burden for project implementers. Reliance on diverse environmental and social (ES) policies without strong internal ES management systems does not help enhance and may even hurt local capacity as local governments and communities do not build a strong understanding on the established rules and procedures.

- **Project.** At the project or project implementation unit (PIU) level, environmental and social (ES) risk management efficiency and quality can be improved by adopting common approaches. This may be pursued by better coordination among donors and government agencies. For projects on linear infrastructure, such as highways, power transmission lines, etc., which are implemented with the involvement of multiple donors, it is important to have approaches that are aligned with each other. Reaching agreement between different financiers on the application of common frameworks, instruments, operations manuals, or standard procedures across IFI-funded projects would allow PIUs to achieve greater consistency, quality and efficiency in their operations. PIUs may use findings of this study to prepare ES instruments such as environmental and social management frameworks, resettlement policy frameworks, labor management procedures, and stakeholder engagement plans that identifying common gaps and risks relevant to the Georgia context across their portfolio.



## I. Introduction

**In October 2018, the World Bank’s Environmental and Social Framework (ESF) went into effect, marking a significant step forward in environmental and social risk management in Bank-financed projects.** The ESF replaced nine former environmental and social safeguard policies.<sup>5</sup>

The ESF reflects international good practice and aims to better align environmental and social requirements across the World Bank Group<sup>6</sup>, as well as with development partners. The ESF intends to improve environmental and social sustainability and to make project approval and implementation more efficient by adopting a risk-based approach and using a common approach with other international financial institutions (IFIs), where possible.

### **Box 1. World Bank Environmental and Social Framework<sup>7</sup>**

The World Bank’s ESF comprises: (i) A Vision for Sustainable Development, which sets out the World Bank’s aspirations regarding environmental and social sustainability; (ii) the World Bank Environmental and Social Policy for Investment Project Financing; and (iii) the Environmental and Social Standards (ESS), which set out the mandatory requirements that apply to the Borrower and projects. The Bank believes that the application of these standards, by focusing on the identification and management of environmental and social risks and impacts will support Borrowers in their goal to reduce poverty and increase prosperity in a sustainable manner for the benefit of the environment and their citizens.

#### **The ten Environmental and Social Standards are:**

ESS1. Assessment and Management of Environmental and Social Risks and Impacts

ESS2. Labor and Working Conditions

ESS3. Resource Efficiency and Pollution Prevention and Management

ESS4. Community Health and Safety

ESS5. Land Acquisition, Restrictions on Land Use and Involuntary Resettlement

ESS6. Biodiversity Conservation and Sustainable Management of Living Natural Resources

ESS7. Indigenous Peoples/ Sub-Saharan African Historically Underserved Traditional Local Communities

ESS8. Cultural Heritage

ESS9. Financial Intermediaries, and

ESS10. Stakeholder Engagement and Information Disclosure.

<sup>5</sup> OP/BP 4.00, Piloting the Use of Borrower Systems to Address Environmental and Social Safeguard Issues in Bank-Supported Projects; OP/BP 4.01, Environmental Assessment; OP/BP 4.04, Natural Habitats; OP 4.09, Pest Management; OP/BP 4.10, Indigenous Peoples; OP/BP 4.11, Physical Cultural Resources; OP/BP 4.12, Involuntary Resettlement; OP/BP 4.36, Forests; and OP/BP 4.37, Safety of Dams.

<sup>6</sup> The World Bank Group comprises five organizations: the International Bank for Reconstruction and Development (IBRD), the International Development Association (IDA), the International Finance Corporation (IFC), the Multilateral Investment Guarantee Agency (MIGA) and the International Centre for Settlement of Investment Disputes (ICSID). The ESF discussed in this report applies to activities of IBRD and IDA. It is closely aligned with IFC’s and MIGA’s Environmental and Social Performance Standards.

<sup>7</sup> The objectives and requirements of each ESS are described in more detail in the Environmental and Social Framework document, available at: <https://www.worldbank.org/en/projects-operations/environmental-and-social-framework>.

**The environmental and social standards (ESSs) of the ESF more comprehensively capture the challenges encountered in development projects than the former safeguards policies.** The ESF equips projects to better address a wide range of issues that were not explicitly covered in the safeguard policies, such as labor rights, worker and community health and safety, and ecosystem services, among others. It also helps projects better meet the current global challenges of resource efficiency, climate resilience, international migration, social polarization, and the exclusion of vulnerable groups.

**The ESF also represents an important shift from a “do-no-harm” approach to one that applies good international practice in a flexible and risk-proportionate manner.** Rather than prescribing a narrower set of rules to be followed in every project context, the ESF lays out key objectives and requirements on a wider range of standards and allows flexibility and judgment in addressing country- and project-specific risks based on the principles of proportionality and good international practice, while ensuring that the objectives and requirements of the ESF are met within all projects.

**For borrower governments, project implementing entities, and environmental and social practitioners involved in World Bank–financed projects, the above changes signify both great opportunities and new challenges.** On the one hand, the ESF provides greater flexibility and aspires to raise the quality and relevance of environmental and social (ES) risk mitigation. On the other hand, it presents challenges to ensure that Borrower’s institutions have the capacity and systems required to implement the ESF.

**The ESF, with its wider scope of coverage, implies the need to involve and build capacity of a range of national institutions beyond the project-implementing entity, in order to achieve its objectives within any given project.** For example, the implementing agency of an infrastructure project may need to routinely rely on national labor laws and authorities to ensure adequate enforcement of working conditions across all its projects. National institutions and protocols that specialize in preventing gender-based violence (GBV) and supporting its survivors will be relied upon, where available, as a basis for GBV prevention and support mechanisms operated at the project level. Thus, the assessment and good understanding of national laws and practices is essential for applying the ESF.

**The objective of the present study is to identify key gaps between environmental and social legislation and practices applied in Georgia and the World Bank’s ESF on selected ESSs and to recommend gap-filling measures.** By this, the study also aims to advance dialogue with government and project implementing agencies on improving important environmental and social systems and the capacity for their implementation. The study highlights priority areas for the attention of the Bank and its client institutions, focusing on the aspects where the largest gaps were found or which carry the greatest risks for smooth implementation of Bank-financed operations. To this end, the study incorporates a comparative assessment of the national legislation and selected ESSs as well as an overview of implementation and enforcement challenges that may present additional risks in development projects.

**The analysis is guided by the methodology proposed by the World Bank’s *Strengthening Environmental and Social Risk Management: Interim Guidance on Conducting Overview Assessment (May 2019)*.** The assessment focuses on three aspects of the national framework: review of the policy and legal framework; review of the institutional environment – key authorizing and implementing institutions; and an overview of the implementation capacity and overall

implementation and enforcement challenges. The assessment is based on desk review of laws and other legal and regulatory documents as well as relevant analytical work by other institutions, and on key informant interviews with policy makers, project implementing institutions, civil society, IFIs, and independent environmental and social practitioners in Georgia. A stakeholder workshop was held in Tbilisi in January 2020 to present preliminary findings of the study and collect feedback on emerging recommendations from a range of country stakeholders.

**The study covers eight out of ten ESF standards.** It primarily focuses on those social and environmental aspects for which the breadth and depth of coverage by the ESF is greater than under previously applied safeguard policies. These include ESS2, Labor and Working Conditions; ESS3, Resource Efficiency and Pollution Prevention and Management; ESS4, Community Health and Safety; ESS5, Land Acquisition, Restriction on Land Use and Involuntary Resettlement; ESS6, Biodiversity Conservation and Sustainable Management of Living Natural Resources; and ESS8, Cultural Heritage. ESS1, Assessment and Management of Environmental and Social Risks and Impacts, and ESS10, Stakeholder Engagement and Information Disclosure, are relevant for all types of investment operations supported by the World Bank and are also included in the scope of this study. ESS7, Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities, and ESS9, Financial Intermediaries, are not covered in the assessment due to their lower relevance to projects in Georgia.

**The primary audience for this note is the government and project implementing agencies as well as World Bank teams and environmental and social practitioners in Georgia.** The study aims to inform task teams in general, and their environmental and social specialists in particular, where critical risks exist under their projects. It also aims to help identify steps for closing or narrowing the key gaps between national laws and regulations and the ESF. It also contributes to advancing policy dialogue with government agencies, nonstate actors, and partner IFIs on improving Georgia's environmental and social management systems in line with international good practice.

**The study is structured in three sections:** Introduction, Key Findings, and Conclusions and Recommendations. The key findings for each ESS cover the most noteworthy legal gaps and gaps in implementation and enforcement between national legislation and the World Bank's ESF as identified through the assessment.



## II. Key Findings

### Assessment and Management of Environmental and Social Risks and Impacts (ESS1)

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*Georgia's Environmental Assessment Code captures many of the requirements under ESS1. With respect to ESS1, the national framework can be strengthened by adopting secondary legislation to support the interpretation of the code specifically on (i) the enforcement of the conditions and mitigation measures prescribed to a project proponent by an environmental permit issued by the Ministry of Environmental Protection and Agriculture, (ii) the scope and content of social assessment as part of the environmental impact assessment, and (iii) the screening and mitigation of broad social impacts, including on vulnerable groups. The implementation capacity of the key responsible institutions and also the interagency coordination need to be strengthened to ensure compliance with the national law.*

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#### Legal Gaps

**Georgia's Environmental Assessment (EA) Code, in effect since January 2018, represented a significant step forward in terms of advancing the country's legislation and aligning it more closely with international good practice on environmental assessment.** The code sets out the three stages for obtaining an environmental permit:<sup>8</sup> screening, scoping, and environmental assessment. The "project proponent"—the project implementing entity, public or private—is required to assess all reasonable alternatives to the project, including the "no project alternative," and to follow a mitigation hierarchy to ensure that impacts on the environment and human health and safety are avoided or minimized. The EA Code requires the assessment of positive and negative, short-term and long-term, cumulative, residual, and transboundary impacts. Types of activities subject to Environmental Impact Assessment (EIA) are identified in two annexes to the EA Code. The EA Code sets out what are deemed higher risk and lower risk activities.<sup>9</sup> The higher risk activities must undergo EIA. The lower risk activities may or may not require EIA depending on the screening outcome. Coverage of activities subject to EIA is generally reasonable. Noteworthy, EIA is not required for water abstraction from surface water bodies and may be required for irrigation as well as for the diversion from one river basin to another. Ground water abstraction becomes subject to EIA above the threshold of 10 million cubic meters per annum. The EA Code allows for the exemption of any project from the EIA procedure if it is proven that the project serves State security needs or is caused by a force majeure.

**In addition to the EIA, the EA Code introduces a couple of other EA instruments, but it does not cover lower risk activities which do not require a full-scale EIA.** An entire section of the code is dedicated to strategic environmental assessment (SEA), although it lacks clarity on what mechanisms ensure incorporation of SEA outcomes into the assessed documents. Sectoral and regional environmental and social impact assessments, referenced in the ESF, are not part of the national legislation. Ongoing activities, initiated before June 1, 2015 without having obtained an environmental permit, are required

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8 The EA Code of Georgia uses the term positive environmental conclusion to describe an environmental permit.

9 Full list of activities which require EIA can be found under Annex I of the EA Code; those that require screening to determine the application of EIA can be found under Annex II of the EA Code: <https://matsne.gov.ge/en/document/download/3691981/1/en/pdf>

to undergo ecologic audits. Unlike the ESF, the code does not require any form of environmental and social assessment and management of activities not requiring a full EIA. Nor is there any framework document for screening and impact managing mechanisms for projects designed to make a multitude of individual investments over time. Similarly, there is no mechanism for communication and public consultation on environmental and social aspects of activities that are not subject to full-scale EIA.

**National criteria for classifying environmental and social risk are different than in the ESF.**<sup>10</sup> National legislation intentionally minimizes the role of professional judgement in assigning risk categories to the project and keeps minimally differentiated approach to activities of various risk categories in order to minimize possible disputes and corruption. Instead of introducing various risk categories and criteria of classification, the EA Code provides two sets of activities, as described above: some with numerically defined thresholds of volume, which are subject to EIA under any circumstances, and those which may or may not require EIA depending on the screening outcome. All other activities are exempt from any environmental and social due diligence. Hence, screening of one specific set of activities is the only instance where the Ministry of Environment Protection and Agriculture (MEPA) takes project-specific decisions in regard to their environmental and social risks. In difference from the EA Code, ESF does not provide lists of specific activities for any risk category, but rather lays out criteria for classification. Risks are classified as low, medium, substantial and high.

**MEPA is the primary policy maker in the field of environmental assessment and enforces the EA Code through its EA and Environmental Supervision Departments.** The EA Department receives and reviews screening, scoping, and EIA reports prepared by project proponents and issues environmental permits. The EIA review implies examination of the report by an expert commission set up by MEPA for each individual EIA report to match the skill mix of invited professionals with the content of a document under consideration. Based on the results of the expert examination, MEPA issues either a positive or negative conclusion on the EIA report. A positive conclusion is an environmental permit and it feeds into the procedure of issuance of a construction permit. A negative conclusion disallows implementation of the intended activity. MEPA is also responsible for organizing and recording public consultation meetings. Minutes are public documents, however, rather than being disclosed, they are available upon formal request to MEPA.

**Public participation is required at all stages of administrative processing—screening, scoping, and EIA.** Public consultations are to be organized by MEPA with the participation of project proponents and the team of professionals who carried out the EIA. In the case of SEA, the Ministry of Internally Displaced Persons (IDPs) from the Occupied Territories, Labor, Health and Social Affairs is also required to disclose screening, scoping, and EIA documents; solicit public feedback; and issue an opinion on the proposed strategic document.

**Neither the EA Code, nor any other law in Georgia, mandates social assessment.** on of strategic documents or activities to maximally prevent, reduce or mitigate adverse effects on the environment, human health and safety, cultural heritage and material assets” (article 2). Other aspects, however,

<sup>10</sup> Few countries in the world explicitly require stand-alone social assessments to be conducted. In 2013, India made social impact assessment (SIA) mandatory as part of its Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation, and Resettlement Act. In most other countries, for example, in Australia, Brazil, Canada, European Union countries, New Zealand, and the United States, social assessment requirements are folded into environmental assessment legislation. These are sometimes limited to requirements for public participation and consultations. In relevant contexts, complementary legislation has been passed to regulate assessments concerning indigenous and aboriginal groups. Individual states, within federal governments, have also implemented their own SIA requirements. For example, the Australian state of Queensland mandated SIAs for projects that meet certain criteria and established an SIA unit within its state government.

are missing, particularly, the identification and adoption of differentiated measures so that adverse impacts do not fall disproportionately on the disadvantaged and vulnerable (including, but not limited to, gender issues), and they are not disadvantaged in sharing development benefits and opportunities resulting from the project. Although few countries explicitly require social assessment as part of development projects, experience shows that a lack of attention to broad social issues often limits the projects' poverty reduction outcomes and may result in impoverishment of vulnerable and excluded groups.

**Differences between ESS1 and national law are also found in the requirements concerning the monitoring of ES mitigation measures.** ESS1 requires the project implementing entity to conduct monitoring and reporting on the ES performance of the project against relevant ESSs. To meet this requirement, project implementing entities are asked to develop and follow detailed environmental and social monitoring plans. Monitoring outcomes are intended to help work out and enforce corrective actions and other remedies that may be required to address the identified ES shortfalls. Under national law, project proponents are required to undertake environmental analysis of their activity, which includes monitoring, analysis of caused impacts and assessment of changes in relevant environmental parameters – all as specified in the environmental permit. The role of MEPA is to disclose reports on environmental analysis undertaken by project proponents and to take this information into consideration while issuing environmental permits in future. The EA Code is unclear on if and how monitoring results are to be used for the adaptive management of ongoing projects. Procedures are explicit only for addressing severe violations, which lead to fining and eventually withdrawing environmental permits. Third party monitoring is not covered in the EA Code.

## Implementation and Enforcement Gaps

**Adequate implementation of the EA Code is significantly constrained by MEPA's institutional capacity challenges.** The EA Department of MEPA is directly responsible for reviewing and maintaining quality control of documents generated in the process of issuing environmental permits, organizing public consultation on these documents, and enforcing the EA Code. With approximately 20 staff members and a large volume of infrastructure investments subject to environmental due diligence, the review of EA documents and the issuance of environmental permits may be either delayed to the dissatisfaction of applicants seeking environmental permits or rushed, thus compromising the quality of review. It is common for MEPA to have a backlog of public consultation records to be produced and made publicly available. The ministry faces challenges in organizing numerous stakeholder consultation meetings in various locations all over the country as well as ensuring that they are held on time and are hosted by qualified representatives.

**Georgia has a strong pool of professionals in various disciplines capable of undertaking high-quality EIAs. However, the capacity of the public and private project proponents to undertake meaningful review of consultants' outputs is weak, which may also negatively influence quality of the final output.** For large-scale projects, it is common to commission reputable international consultant companies who team up with the national specialists. Quality of the produced EIA reports is generally good; however, problems may arise from superficial or incomplete terms of reference given to EIA consultants by the project proponents.

**The enforcement of environmental mitigation measures is weak and fragmented.** The EA Department of MEPA is responsible for reviewing documents submitted by project proponents and issuing environmental permits. Yet MEPA's mandate to supervise and facilitate the implementation of specific mitigation measures, ruled through the environmental permits, is unclear. The Environmental Supervision Department, also under MEPA, is mandated to ensure compliance with all aspects of environmental legislation in Georgia, which implies a vast range of responsibilities that are too broad to allow for tracking how environmental and social management plans are implemented at the project level.

**Conflicting priorities across government agencies can compromise the effective implementation of the EA Code.** The government of Georgia has declared that stimulating economic growth, creating jobs, and attracting direct foreign investments are highly relevant priorities. However, it is not uncommon to see these priorities competing with the interests of conserving biodiversity, provisioning ecosystem services, preserving natural features around historic monuments, and so forth. Business interests sometimes require that infrastructure be delivered by a certain date, and national law allows EIA/SEA procedures to be bypassed if urgency of delivery is dictated by the paramount state interest. All of the above may lead to compromises in the course of the EA process and/or influence the contents of the environmental permits. Under these circumstances, MEPA's performance as the EA Code implementer will depend on strong backing at the highest political level.

**The EA Code provides for, but does not guarantee, meaningful public consultation on the environmental and social aspects of investment projects.** The adoption of the EA Code improved the legal basis for public participation in the EIA process. It requires disclosing and soliciting public feedback on the screening decisions as well as holding public consultation meetings on the scoping and EIA reports. However, the quality of the consultation and feedback process could be improved so that information about upcoming projects and their ES implications are accessible to a wider audience of stakeholders. Furthermore, stakeholders demonstrate a certain distrust in the true value of the consultation process, particularly when they do not see their feedback reflected in the project design and have not been given convincing reasons for that absence.



## Labor and Working Conditions (ESS2)

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*Georgia is in the process of strengthening its labor legislation in line with the European Union Association Agreement. Currently, the most significant legal gap in relation to ESS2 is the lack of a routine inspection and enforcement mechanism for the Labor Code. Other gaps include ambiguities regarding overtime work provision of minimum wage, assessing acceptable working conditions for young workers, monitoring capacity and knowledge to enforce the new Law on Labor Safety, and ensuring that workplace grievance mechanisms are in place for employees.*

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### Legal Gaps

In recent years, Georgia has undertaken regulatory labor and occupational health and safety (OHS) reforms, including reestablishing the Labor Conditions Inspecting Department in 2015 and introducing the new Law on Labor Safety in 2018. Amendments to the Labor Code are currently being drafted to harmonize Georgian labor legislation with the requirements and standards of the European Union (EU). It is anticipated that the new amendments will address the identified gaps with ESS2, which are presented below.

**Georgia's Labor Code provides to a great extent coverage of the main areas under ESS2: Labor and Working Conditions.** The Labor Code includes provisions on the right of workers to organize, prohibits discrimination, sets work hours (40 hours per week; 48 hours in special regime workplaces), provides for paid annual leave (minimum of 24 days), and prohibits forced and child labor. The minimum age for employment is 16 years.<sup>11</sup> The Law on Labor Safety addresses the main OHS requirements of ESS2. Only legally employed workers, including foreign nationals, are protected by the Labor Code, which applies to workers in both the public and private sector.<sup>12</sup> Civil servants' rights are regulated by the Law on Public Service.

**Currently, the main gap with ESS2 is the absence of a national institutional mechanism to monitor the implementation and enforcement of the Labor Code outside of the judicial system.** Georgia's Labor Conditions Inspecting Department<sup>13</sup> has a mandate to enforce only the Law on Labor Safety and the Law on Combating Human Trafficking, and its powers do not extend to enforcing the Labor Code<sup>14</sup>. In practice, this means that the Labor Conditions Inspecting Department can neither supervise nor enforce employers to comply with the Labor Code. The department cannot conduct announced or unannounced visits, issue recommendations for remedial actions, or apply fines for noncompliance in relation to the Labor Code, whereas it can carry out supervision and apply fines with regard to OHS.

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11 A child between the age of 14 and 16 can be employed with consent from a legal representative, tutor, or guardianship body as long as the employment is not against the child's interests; does not damage moral, physical, or mental development; and does not limit the child's right and ability to obtain elementary, compulsory, and basic education. Labor contracts can be concluded with children younger than 14 only if they are performing work related to sports, the art and cultural sphere, or advertising activities. Persons between the ages of 16 and 18 are prohibited from engaging in hazardous and night work.

12 Employment contracts can be concluded in writing or orally; however, contracts exceeding three months' duration of employment must be concluded in writing.

13 Part of the Ministry of IDPs from Occupied Territories, Labor, Health and Social Affairs.

14 Currently, the draft of a new law on labor inspection is being considered by the government of Georgia; it should extend the mandate of the Labor Conditions Inspecting Department to monitor the implementation of the Labor Code.

**Employees who believe that their labor rights have been violated can only seek remedy through the judicial system.** Such circumstances present a challenge not only for workers but also for investors, who hire contractors to carry out works. When contractors do not meet the contractual obligations of their employees, the only means for the investor to enforce the labor rights of the contracted workers is by notifying the Labor Conditions Inspecting Department of the situation. The Labor Code<sup>15</sup> does not require project proponents to incorporate labor and working conditions requirements into contractual agreements with contractors, together with appropriate noncompliance remedies, as required by ESS2. For projects financed by international finance institutions, the lack of enforcement of national laws by the contractors presents an added project risk. It is anticipated that the new law on labor inspection will most likely grant the Labor Conditions Inspecting Department with the mandate to expand its powers to monitor and enforce Labor Code compliance.

**There are several areas where national legislation is either partially aligned with ESS2 or the implementation modality is not well defined.** For example, the Labor Code provides that overtime payment should be provided at a rate higher than the base wage; however, it does not prescribe the rate of increase. The rate is subject to agreement between the employer and the worker, which may put the worker in a vulnerable position. Similarly, the law prohibits the employment of persons younger than 18 in hazardous and night work, but the Labor Code does not require that employers carry out appropriate risk assessment when employing workers between the ages of 16 and 18, as required by ESS2, nor does it require them to monitor how the protective measures for young workers are implemented.

**Although the Labor Code provides for a dispute resolution mechanism, there is no specific requirement for employers to establish a workers' grievance mechanism.** The law includes an optional workplace conciliation procedure, which may be used in the event of a dispute between the employee and employer. Nevertheless, some employers have established grievance redress procedures as part of their internal human resource regulations.

**Some labor protections are not addressed in the Labor Code, and this represents a legal gap with ESS2.** For example, the Labor Code does not provide for a minimum wage.<sup>16</sup> Likewise, it does not include a limit on the maximum overtime hours. There is also no clear provision on a weekly rest period. The lack of regulation for these issues can make workers vulnerable to underpayment, long working hours, and inadequate rest, which, in turn, lead to OHS risks. The current Labor Code does not address the issue of equal pay for equal work for women and men or the issue of paternal leave. The lack of such provisions may contribute to maintaining gender inequality. In addition, the formula for calculating severance payments in instances of collective redundancies is not provided, which may create a risk of social insecurity for workers who are dismissed. The law does not require that severance and other statutory payments be paid on or before termination of the working relationship, but it does provide for the payment within 30 days following the termination.

**Sexual harassment in the workplace is prohibited, and nondiscrimination issues are additionally addressed in the legislation on gender equality and protection of persons with disabilities.**

15 The Labor Conditions Inspecting Department, in turn, provided it has the contractors' permission, conducts an inspection and can issue a recommendation if the violation is related to the Law on Labor Safety or the Law on Combating Human Trafficking. The recommendation is not mandatory, but, in practice, companies tend to obey recommendations in order to avoid unnecessary conflicts with the State authorities.

16 Decree No. 351 of the President of Georgia on Minimum Wage (1999) provides for a monthly minimum wage of 20 Georgian Lari (approximately US\$7), which is outdated.

In 2019 Georgia amended the Labor Code to prohibit sexual harassment, which is defined as a form of discrimination and is punishable with administrative penalties. Nondiscrimination principles stem from the Constitution of Georgia and are included in the Labor Code, but only in relation to hiring practices. The law is not specific about discrimination regarding compensation, promotion, termination of employment, or disciplinary practices. However, these aspects are addressed by the Law on the Elimination of All Forms of Discrimination, which particularly emphasizes the equal opportunity principle during the hiring process, access to training, promotion, and job assignment. The Labor Code generally protects persons with disabilities<sup>17</sup> in labor relations, but it does not define what workplace conditions employers should provide in order to create an enabling environment for persons with disabilities based on the principle of universal access. The Law on Social Protection of Persons with Disabilities affirms the right of persons with disabilities to work and prohibits discrimination in employment on the grounds of disability.

**The Law on Labor Safety addresses the main ESS2 requirements related to OHS, but detailed coverage of certain requirements is partial.** The new Law on Labor Safety applies to all economic sectors. Employers are required to conduct documented risk assessments at all stages of the work process, implement preventive and protective measures, and provide regular OHS training to workers including at the beginning of employment and prior to the launch of new technological process or the use of new machinery. However, the law does not require employers to keep the workers' OHS training records; provide certain facilities, such as canteens, hygiene facilities, areas for rest, and separate facilities for men and women; or document the specific OHS incidents, such as project-related occupational injuries, illnesses, and lost-time injuries. The Labor Conditions Inspecting Department conducts supervision of the implementation of legal OHS requirements in the workplaces.

## Implementation and Enforcement Gaps

**The Labor Conditions Inspecting Department currently has limited yet growing capacity to inspect and enforce the implementation of labor and health and safety laws.** As of February 2020, the department employed about 40 inspectors and planned to recruit more to reach the target of 80–100 inspectors by 2021, which will be in line with the International Labour Organization's good international practice recommendation for the number of inspectors per the number of workers in a country. The department is mandated to inspect health and safety conditions at any workplace across the country; hence, this suboptimal number of inspectors could hinder fulfilment of the mandate.

**The Law on Labor Safety requires employers with more than 100 workers to have at least two certified safety specialists, effective as of September 1, 2019.** However, there is a limited number of qualified safety specialists in the labor market in Georgia, and employers are finding it difficult to certify their own staff to meet the legally prescribed deadline.<sup>18</sup> One positive development is that the Labor Conditions Inspecting Department now has the mandate to make unannounced visits to any workplace and issue fines to noncompliant employers. However,

<sup>17</sup> Georgia ratified the convention on the protection of the rights of persons with disabilities on December 4, 2014.

<sup>18</sup> Accreditation of health and safety specialists is provided by training institutions that are accredited by the Ministry of IDPs from Occupied Territories, Labor, Health and Social Affairs. Currently, the ministry is renewing accreditation for registered organizations that implement an accredited program for labor safety specialists; hence, there are no programs running as of the date of this report (March 2020). The number of accredited labor safety specialists is unknown.

the mandate to inspect the terms of employment and working conditions in relation to the Labor Code is still pending.

**Safety culture of employers and behavioral practices of workers currently represent implementation gaps in the area of OHS.** The construction and mining sectors often have challenges with meeting the required OHS conditions. From a risk perspective, it is essential that these sectors comply with the fundamental principles of the Labor Code, such as limiting overtime hours and providing adequate weekly rest periods. Despite the current regulation on working hours, there are instances when these regulations are not duly observed by the employers. The Labor Conditions Inspecting Department's lack of mandate to inspect working hours at workplaces is a problem that leads to employees working much longer hours than required by law, without recourse to complaint, outside of court.<sup>19</sup> In general, both employers and workers need to change their behaviors and adopt a culture of prioritizing health and safety and well-being at the workplace.<sup>20</sup>

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19 Stakeholders interviewed during the preparation of this report appear to believe that there is a common skepticism toward achieving a result through judicial channels; it is also costly and time-consuming. Practice, however, demonstrates that most of the labor-related cases brought to court are decided in favor of the employees.

20 In 2018, 18 people died and 12 were injured in the workplace, according to the Georgian Trade Unions Confederation.



## Resource Efficiency and Pollution Prevention and Management (ESS3)

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*Georgia has an advanced Waste Management Code, an outdated Law on Water to be replaced with a new one currently in draft, mining legislation with little incentives for efficiency and weak environmental regulations, and no dedicated legislation on energy efficiency, only working drafts. To uphold the objectives and requirements of ESS3, (i) watershed-based management of water resources is to be introduced, (ii) a new regulatory framework for mining should be developed with embedded principles of environmental and social responsibility, and (iii) the formally adopted energy efficiency policy needs to be operationalized by enactment of enforceable requirements and standards. Adequate implementation of the Waste Management Code requires additional infrastructure and incentives for businesses and local governments as well as strict enforcement.*

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### Legal Gaps

**The national regulatory framework for pollution prevention prioritizes public health protection and is based on defining thresholds for permitted concentrations of pollutants to which humans may be exposed.** The EA Code requires calculation of the expected emissions (including noise) and discharges as part of the EIA, so that compliance of an intended project with the established thresholds is proven. Software modelling of emissions is broadly used for this purpose. Industrial facilities are required to submit emission/discharge calculations to MEPA along with time-bound plans for acquisition of less-polluting technologies, if not fully compliant. Industries generating solid waste and hazardous waste above specified volumes per annum, must develop waste management and disposal plans for MEPA's approval.

**Georgia's Waste Management Code (2015; last amended in 2019) is well harmonized with conventional policies of waste management, including a strong emphasis on reuse, recovery, and circular economy.** The law introduces a waste management hierarchy, listing prevention, preparation of reuse, recycling, recovery, and disposal in the conventional order of preference for waste management solutions. The dumping of waste and the mixing of hazardous waste with other types are strictly prohibited. In addition, the "polluter pays" principle has been adopted. However, the code establishes later dates for enacting a number of its provisions because, at present, there is an acute lack of waste management infrastructure and such provisions are too expensive for businesses.

**Regulations are set forth for collecting and processing of hazardous waste, including asbestos-containing construction waste and obsolete lubricants.** However, neither the Waste Management Code nor other supporting legislation covers management of mining waste. The stand-alone law on mining waste remains in draft.

**The Law on Water (1997; last amended in 2018) was enacted to prevent water pollution and ensure the efficient use of water, but it lacks tools for enforcing these principles.** It does not require EIA or issuance of an environmental permit to construct municipal water supply systems or for water intake from surface-water bodies. As a result, such systems continue to be built and resources taken without due consideration of the environmental implications. Only groundwater extraction for the municipal water supply is subject to licensing and requires EIA if above 10 million cubic meters per

annum. National legislation prioritizes municipal water supply for domestic consumption over other types of water use. Other principles of water sharing and prioritization (e.g. for irrigation, power generation, etc.) are not stipulated explicitly. Wastewater discharge is regulated by the established thresholds for the permitted concentration levels of various pollutants. No other ecological aspects of water use, cumulative impacts among them, are integrated into the regulatory framework. New water legislation, based on the watershed-based principles of water use planning and management, is currently in draft.

**Georgia has committed to adopting the principles of the EU Energy Efficiency Directive (2012/27/EU) and transposing them to its own legislation under the EU Association Agreement. This commitment is a cornerstone of the nationally defined contribution document developed for the purposes of the Paris Agreement under the United Nations Framework Convention on Climate Change. However, it lacks enforceable regulations.** The Law on Hydropower and Natural Gas (1997; last amended in 2019) includes a general requirement for the efficient use of energy. The Spatial Planning, Architecture and Construction Code (2018; last amended in 2019) also incorporates a general requirement on energy efficiency in construction. However, specific standards and rules are not in place. These are expected to be introduced along with new legislation on energy efficiency.<sup>21</sup>

**National legislation carries other gaps with ESS3.** For example, the regulatory framework applicable to the mining sector has many weaknesses, including its lack of the right economic incentives for efficiency. Also, there is no legal basis for assessing the cumulative impacts of gravel and sand extraction from numerous quarries authorized along individual rivers. According to the EA Code, cumulative impacts are looked at in the process of EIA of a particular project. If all individual projects undertaken in the same ecosystem are small enough not to require EIA, then there is no instrument to assess their collective impact.

## Implementation and Enforcement Gaps

**Although free dumping and open burning of any type of waste is prohibited and fines are established for violation, the administrative costs of enforcement and the lack of infrastructure prevent compliance with these regulations.** Whereas there are only a handful of standard sanitary landfills in the country and a limited number of registered waste disposal facilities, numerous illegal dump sites remain in rural Georgia, including harmful dumps inside riverbeds.

**The Waste Management Code regulates the arrangement of hazardous waste landfills, but the country lacks such facilities, and temporary storage of hazardous waste on privately owned premises remains unregulated.** Several private companies are authorized to collect, process recovery, and store hazardous waste, but their services are expensive. Hence, most entities that generate hazardous waste temporarily store it on their own premises, which does not require licensing. There is weak control over the storage of hazardous waste on private premises, and the risks to public and environmental health are high. This is especially relevant in cases of decommissioning of industrial facilities that have been generating and storing hazardous waste over time.

**The polluter pays principle has been introduced in environmental legislation and is reflected in the**

<sup>21</sup> As of May 21, 2020 Georgia has approved the Law on Energy Efficiency and the Law on Energy Efficiency of Buildings

**system of administrative penalties applicable to violators; however, disincentives are generally not strong enough for a behavioral change.** The technical inspection of vehicles, abolished 2004, is now being re-introduced in a phased manner. The currently applied mechanism of inspection shows positive results but is not fully sufficient for managing air pollution from mobile sources. Other regulations do not have similar coverage or stringency of enforcement. The amounts of fines established for polluting industries are modest and often are cheaper than the investments required for acquiring cleaner technologies.



## Community Health and Safety (ESS4)

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*The Constitution of Georgia and the Law on Environmental Protection establish the general principles of community health and safety. A number of technical regulations address other aspects of ESS4. Still, important gaps exist, for example, regarding the safe distance between residential areas and certain types of linear infrastructure. The impacts from labor influx and GBV-related risks are also not explicitly covered in national law. Disputes over water use between industries and communities occur due to weak regulations on water abstraction and legal gaps with regard to ecosystem services.*

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### Legal Gaps

**The general principles of protecting the health and safety of citizens and communities are embedded in the Constitution of Georgia (1995; last amended in 2018) and the Law on Environmental Protection (1996; last amended in 2019).** These laws stipulate that everybody has a right to live in a natural environment that is not harmful to their health. To achieve this goal, thresholds are established to limit human exposure to hazardous environments based on a number of physical, chemical, and biological parameters. The Order of the Minister of Labor, Health and Social Affairs of Georgia (No. 297/ , Dated 2001, Last Amended 2007) on Approving Qualitative Norms of Environment defines multiple requirements relevant to community health and safety. These include issues related to: (i) the quality of marine coastal waters in the areas of water used by the population; (ii) the establishment and maintenance of protection zones around surface-water bodies used for municipal and industrial water supplies; (iii) the maximum permitted levels of pollutants in the atmospheric air within settlements; and (iv) the allowable levels of human exposure to electromagnetic fields, to noise and vibration at the workplace, within settlements, and in the interior of residential and public buildings, among others. The safety of drinking water is ensured by technical regulations on drinking water quality approved through the Ordinance of the Government of Georgia No. 58 Dated 2014.

**National legislation adequately regulates the handling of hazardous materials, sufficiently managing the risk of community exposure to such materials.** The Order of the Minister of Labor, Health and Social Affairs of Georgia No. 133 , Dated 2001, on Approving the List of Hazardous Chemicals Banned for Production, Use, Import-Export or Subject to Strongly Restricted Use in the Territory of Georgia clearly defines banned chemicals and materials. The Ordinance of the Government of Georgia No. 263, Dated 2016, on the Rules of Import-Export of Hazardous Substances and Pesticides and on the Procedures of Preliminary Consent establishes rules for the transboundary transportation of permitted hazardous chemicals and pesticides and carries the list of hazardous chemicals and pesticides banned for production, use, import, and export in the territory of Georgia based on the Stockholm Convention on Persistent Organic Pollutants.

**The EA Code requires proposed investment projects and respective mitigation measures to consider the impacts of climate change and likely natural disasters.** The Ordinance of the Government of Georgia No. 41, Dated 2016, on Approving Technical Regulations for Safety of Buildings and Premises includes the requirement for respecting seismic safety rules in construction.

**The concept of universal access has been introduced and applied to new construction as well as to reconstruction of existing public premises.** The Order of the Prime Minister of Georgia No. 41, Dated 2014, on Approving Technical Regime for Space Arrangement and for Architectural and Design Elements for Persons with Disabilities ruled on retrofitting of the existing public buildings for the needs of disabled persons. It also mandated that the design of all new public buildings has to include universal access principles in order to be eligible for a construction permit. The Order of the Minister of Internal Affairs of Georgia No. 449 Dated 2007 on Approving Fire Safety Rules specifies technical requirements for fire safety for the operation of a variety of premises and means of transportation, including residential and public buildings.

**Water legislation covers some key requirements of ESS4, but lacks integrated approach to watershed management.** In addition, some of the statements in the national legislation lack enforceable instruments. For example, the current Law on Water stipulates that water use should be efficient, should not pollute or otherwise damage the sources of its supply, and should not affect the rights of other water users. However, the environmental impacts of abstracting water for municipal supply as well as the cumulative impacts of abstracting water from multiple points of the same natural source are not subject to assessment unless individual projects are large enough to require EIA. Therefore the provisions of the law cannot be enforced in many development activities. The lack of clear methodology for the establishment and seasonal adjustment of permissible water intake and its monitoring leaves room for conflicts over water availability. Disputes between communities and developers of hydropower plants and other water-consuming infrastructure are common. Protests by nongovernmental organizations and other stakeholders against environmentally damaging water abstraction occur frequently. As a result of a regulatory vacuum with regard to calculating thresholds of ecological/sanitary flow, EIAs refer to methodologies applied formerly in the Soviet Union or used nowadays in various parts of the world. Most frequently, this is a flat amount of 10 percent of average discharge established over extended periods of monitoring. MEPA, while issuing environmental permits on EIA reports for water-intensive projects, is vulnerable to pressure from developers due to the lack of clear regulatory basis in this field.

**There are important deficiencies in safety arrangements during construction and operation of major infrastructure.** Georgian legislation does not specifically require the assessment or management of risks from labor influx or of the gender-based violence (GBV) risks associated with labor influx. There is also no requirement to include and adhere to a code of conduct by construction companies. According to the EA Code, emergency preparedness plans shall be developed for infrastructure in case accidents during its construction and operation may be detrimental to public life and well-being. However, there are no separate and comprehensive requirements on dam safety. Construction of dams is subject to general regulations on construction permitting, which implies expert examination of design documents by qualified professionals.

**The national regulatory framework is clear on the use of security forces.** The Police Guard Service is a legal body of public law under the Ministry of Internal Affairs that is mandated to protect strategic units of infrastructure (for example, airports, railways, depositories of national treasure, and so on) as well as personal safety and possessions of legal and physical entities (such as diplomatic missions). Police Guard Service personnel are authorized to carry and deploy firearms and other special equipment strictly within the frames established by the charter of this institution. The Law on Private Security Activities (2008; last amended in 2019) defines the: (i) organizational and legal bases for the provision of private security services, (ii) the rule and terms of licensing private

security services; (iii) rights and obligations of guards deployed by private security services; (iv) the contractual relationships between the client and the private security service provider; (v) the control over the operation of private security service providers; and (vi) the rules for using weapons and special tools by security service providers and their responsibilities in using these weapons. The provision of private security services is subject to licensing, according to the Law on Licenses and Permits (2005; last amended in 2019).

## Implementation and Enforcement Gaps

**Enforcement of the qualitative norms for the environment is challenging for various reasons.** Air pollution norms are exceeded in cities because the required improvements in public transportation, fuel quality, and aging automobile fleets are being introduced gradually to make them affordable and socially acceptable. Noise exposure thresholds are mostly respected when constructing new roads and other infrastructure; however, relocating numerous residential and public buildings already placed in immediate proximity to the static sources of noise is unrealistic. Therefore, residents remain under greater exposure than the established ceiling. Issues arise when the thresholds of exposure to vibration are not exceeded but structurally compromised old constructions fail to withstand even the permitted levels. Addressing such cases requires action which is not clearly mandated by law and is procedurally challenging but carries significant implications for the poor who commonly reside in structurally compromised old houses.

**Requirements for ensuring the structural integrity of buildings, as well as the safety of provided utilities, are well enforced upon the commissioning of new buildings, but unauthorized modifications may occur in the operation phase.** Incidents occur due to informal connections to gas and power supply systems and the use of substandard appliances by residents after the buildings have entered into operation. There is also a considerable number of older buildings, which remain in use, although their designs do not meet fire safety standards.

**With regard to the accessibility of public buildings, regulations established for new construction and for retrofitting of old premises are not always met and rarely monitored.** Not all public buildings are adapted for persons with disabilities, which can create problems of access during public consultations, and limit such persons' access to key public services. The retrofitting of public buildings for the needs of persons with disabilities is underway. New construction usually includes such architectural features, however, not all of the buildings are well designed, which can make them difficult to operate.

**Communication with communities regarding safety of exposure to many pollutants is not consistently managed, often causing conflicts between developers and the public.** As noted above, human exposure to noise, vibration, electromagnetic radiation, among other pollutants, is regulated by clearly established thresholds. However, public distrust in the safety of some of these limits persists. Project implementing agencies often do not invest proactively in public awareness and consensus-building at the initiation of project works, and instead respond reactively on a case-by-case basis, driven by complaints from local residents, which perpetuates public distrust. Exposure to electromagnetic fields is the most debatable issue. It can only be measured after the infrastructure has been built and is operational. Due to the high variation of intensity caused by external factors across different contexts, the range of expected impacts cannot be accurately translated into uniform

“safe” distances. Therefore, while selecting the location or alignment of new infrastructure, the best estimates of possible impacts are used, including those derived from modeling. Public distrust in the existing safeguards stems from many unanswered questions, such as: *Are established thresholds safe for human health? Is the area of impact estimated accurately? What measures would be taken to protect people if they are found to be overexposed once the infrastructure is up and running? What if thresholds of exposure are not exceeded but vulnerable persons experience severe impacts?*

**Enforcement of the regulations on handling hazardous materials and hazardous waste is often impeded by low public awareness on the regulations, as well as on the consequences to human health from noncompliance.** For example, project implementing agencies frequently encounter communities who are reluctant to give up asbestos-containing waste generated from the replacement of roofs and pipes. Some communities insist on reusing these materials for household purposes and prevent workers from disposing of them as prescribed by the Waste Management Code.

**Traffic safety near and within construction sites is poorly observed even though traffic regulations are clear, comprehensive, and generally well-enforced elsewhere.** The Law on Traffic (2014; last amended in 2020) provides the legal basis for traffic organization and safety, including the installation of traffic signs, road marking, and management of traffic around work sites within road corridors. These rules are usually respected on highways and main roads but less so on secondary roads. On secondary roads, warning signs may appear immediately at the work site, not allowing sufficient time to slow the speed, or they are not sufficiently visible at night. This issue may arise due to negligence of contractors and be made worse by weak public action on the part of communities and local government.

**Consultation or engagement with communities residing near construction sites is not required by legislation and rarely happens in practice.** This may include raising community awareness about the nature of construction works and training construction company personnel on prophylactic use to prevent the spread of communicable diseases, the available codes of conduct, and so forth. Such practices are generally adopted either by large international companies or, in cases where a local company acts as a subcontractor of an international company, or as required by the policies of an investor.



## Land Acquisition, Restrictions on Land Use, and Involuntary Resettlement (ESS5)

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*Georgia has developed expropriation legislation related to eminent domain for projects of national significance. Georgia's Civil Code has provisions for the compensation of impacted land and assets. The national legal framework and practices can be strengthened by incorporating clearer requirements on the land acquisition process, consultation and grievance redress requirements, and provisions regarding economic losses and livelihood restoration. More robust guidance on the valuation process is needed both to ensure adequate compensation and to reduce the discrepancies in compensation methodology that are currently encountered across projects.*

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### Legal Gaps

**Unlike ESS5, Georgian legislation requires neither preparation of resettlement action plans (RAPs) nor public consultations related to resettlement impacts.** The legislation also does not provide for compensation for restriction of access to land or resources nor for compensation or assistance for land or assets occupied without recognizable user rights. The legislation does not cover the need to address the needs of vulnerable persons nor to restore the livelihoods of those who have been affected by resettlement. The mitigation of resettlement impacts in Georgia is not governed by one overarching framework. Rather, different pieces are regulated by different laws. Many government agencies often follow processes as included in IFI resettlement policy frameworks as a matter of practice, even under government-financed projects. The most relevant legislative acts are the Constitution of Georgia, which recognizes and guarantees the right to own and inherit property; the Law on the Procedure for Expropriation of Property for Pressing Social Needs, which sets rules for expropriation procedures and also introduces the concept of an escrow account; the Civil Code, which has provisions on procedures for right-of-way and includes the chapter titled “Limited Use of Property Belonging to Another Person,” which includes descriptions of the terms *lease*, *rent*, *servitude* (easement), *usufruct*, and the *right to superficies* (the right to erect a structure); and the Law on Ownership Rights to Agricultural Land, which provides a definition of *agricultural land*.

**There are no specific requirements to avoid or minimize land acquisition and related adverse impacts or to address economic and broader social impacts.** One of the stated objectives of the EA Code is to “ensure public access to information on all likely effects of the implementation of strategic documents or activities to maximally prevent, reduce or mitigate adverse effects on the environment, human health and safety, cultural heritage and material assets” (article 2). Moreover, the EA Code specifies that a scoping report should include general information “on the measures which will be considered for preventing, reducing and/or mitigating significant adverse effects on the environment” (article 8).

**The Georgian law recognizes only legal owners of land parcels.** “Legalizable” land parcels (that is, parcels to which the owners have some evidence of ownership but have not completed full registration) are also recognized and are compensated after the registration process is complete. There is no regulation on how much time the government or investor should give to a project-affected person to register land or any other asset. In IFI-funded projects, project implementing agencies follow agreed-upon RAPs and do not pay compensation for land but do provide compensation for nonland impacts—

such as damages to buildings, trees, crops, and income—to nonregistered and non-legalizable (that is, informal) users. For government-funded projects, informal users do not receive compensation for land or nonland impacts. For all types of compensations, the law allows depositing money on escrow account for a fixed period of time. Funds are released when certain obligations are met, for example, registration process is complete and agreement between the government and the project-affected person is signed. It also has to be noted that conditions and requirements of voluntary land transactions and donations are not elaborated in Georgian legislation. Generally, voluntary transactions are not practiced in Georgia.

**Currently, Georgia is in the process of land reform that aims to register all land in Georgia, using both systemic and sporadic approaches.** Based on a pilot program of systematic land registration, applied in 12 municipalities, a new law<sup>22</sup> came into effect on January 1, 2020, that aims to expedite the land registration reform. For sporadic land registration, the procedures have been significantly simplified.<sup>23</sup> For systemic registration, the Ministry of Justice can select areas, based on state needs, and assign the National Agency of Public Registration with managing all aspects of land registration, such as identifying the boundaries of land parcels, that are otherwise managed by local municipalities. Implementing ESS5 in areas that have been covered by the land registration pilots is substantially easier, but it can be a lengthy process in areas where landowners have not yet obtained registration.

**Georgian law does not incorporate the concept of “replacement value.”** Although the Law on Compensating for Substitute Land Development Value and Sustained Damage When Allocating Agricultural Land for Non-agricultural Purposes Payment of Substitute Land Reclamation Cost and Damages in Allocating Farmland for Non-farming Purposes sets compensation rates in all municipalities, it has several gaps. First, it sets a single unit rate for an entire municipality, even though there might be a substantial variance of land prices depending on the location of the land plot, its use, and so on. Second, land prices might change over time. In practice, the RAP consultants hired by the project implementation units (PIUs) of the implementing entities use certified valuation experts for RAP preparation, which employ a more differentiated valuation methodology. The quality of such valuations may also be questioned due to gaps described below.

**There is no specific law regulating the land or property valuation practice in Georgia.** The Law on Accounting, Reporting and Audit notes that “the Government of Georgia shall draw up a legal act on valuation activities, before 31 December 2018, for the purpose of separating audit and valuation professions” (article 28, Transitional Provisions). There have been attempts to achieve this, but it has never materialized. Thus, the valuation field remains effectively unregulated by the Georgian legislation, which leads to inconsistencies in valuation methods and weaker capacity for quality control. Valuation experts are certified by the Professional Development Center of Valuers and Experts (formerly the Association of the Landowners Rights), based on the principles of the International Valuation Standards (IVS) and ISO/IEC 17024: 2012/2014. The Professional Development Center of Valuers and Experts is accredited by the Accreditation Center, an entity under the Ministry of Economy and Sustainable Development.

22 The Law on the Improvement of Cadastral Data and the Procedure for Systematic and Sporadic Registration of Rights to Plots of Land within the Framework of the State Project.

23 More documents can now be used to certify ownership, photocopies of documents are allowed, documents with partially missing or partially wrong data (for example, the date is not entered, different spellings of same name, and so forth) can also be accepted.

**Another gap in the state expropriation legislation is that it does not regulate easement.** Although the expropriation law can be used to acquire the rights of full ownership, it cannot be used to acquire easement rights. In such cases, PIUs use the procedure of “necessary right-of-way” from the Civil Code (article 180). This gap affects a significant number of people who are impacted by infrastructure projects that do not require land acquisition but impose certain restrictions over their property, such as overhead transmission lines passing over their land or underground water pipes within their property.

## Implementation and Enforcement Gaps

**The capacity and organizational structure to manage land acquisition and resettlement processes is growing but remains limited, even under projects funded by IFIs.** A usual practice in the past has been to manage environmental and social issues via land acquisition or “permission” departments whose primary objective was to obtain the necessary permits and clear the right-of-way for construction. As the number and scope of IFI projects is growing, more implementation agencies have established ES safeguard units that have broader functions to manage ES risk, including stakeholder engagement and the management of grievance and redress mechanisms. Filling these units with qualified staff, however, remains a major challenge. Implementation agencies often rely on external consultants and do not have strong capacity to review, or sense of ownership over, resettlement documents. In turn, this leads to weaker supervision and monitoring and evaluation activities from the PIU. The quality of documents produced by external consultants also varies. For example, surveys are often poorly executed, forcing the implementation agencies to redo surveys multiple times during implementation.

**Although the valuation methodology, in principle, adheres to the IVS, it is inconsistently used across different projects and valuation experts.** Because of the absence of strong national legislation, there is no state monitoring of the practice. The certification scheme of the Professional Development Center of Valuers and Experts has some provisions on monitoring, but they are minimal and rarely exercised. Large discrepancies in valuation are due to the lack of specific and robust valuation and compensation procedures, and some outdated methodologies are used. Another issue with valuation is that although RAP consultants specify in the bidding documents that they will adhere to the IVS documents, in practice, only a small budget is allocated to valuation, resulting in under-sampling, too generic categories (for types of land or houses, for example), and generally poor-quality valuation reports.

**Another practical challenge with RAP implementation is the long timeline associated with completing compensations.** Compensations are due to registered owners only; “legalizable” owners are also recognized and compensated only after they complete registration. In practice, the registration process is lengthy and complex, leading to delays and possible exclusion of affected persons from compensation that may arise in the registration process, specifically for informal users.



## Biodiversity Conservation and Sustainable Management of Living Natural Resources (ESS6)

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*Georgia has a strong regulatory framework for protecting, conserving, and restoring biodiversity. However, less attention is given to preserving habitats. There is no differentiated approach for transformed, natural, and critical habitats. Instead, restrictions vary for activities in habitats located inside and outside of designated protected areas. Managing biodiversity outside of formal protected areas is challenging due to legal gaps as well as a lack of technical and methodological guidance. Ecosystem services and biodiversity offsets are not part of the national legislation. The adoption of the law on biodiversity and the forest code, both currently in draft, would be instrumental in addressing the main legislative gaps.*

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### Legal Gaps

**Georgia has a strong regulatory framework for protecting, conserving, and restoring biodiversity, but legal provisions for sustainable use of living natural resources do not provide regulatory basis enabling to meet social needs of forest-dependent communities and maximize benefits of its economic use while preserving forest ecosystems, preventing forest degradation and depletion of its resources.** The main pillars of this framework are the Law on Environmental Protection (1996; last amended in 2018), the Law on the System of Protected Areas (1996; last amended in 2018), the Law on Red Book and Red List of Species (2003; last amended in 2018), and a number of international conventions joined by Georgia. The national system of protected areas aligns with the principles established by the International Union for Conservation of Nature (IUCN). The Forest Code currently in force (1999; last amended in 2019) and its bylaws do not provide regulatory basis enabling to meet social needs of forest-dependent communities and maximize benefits of its economic use while preserving forest ecosystems, preventing forest degradation and depletion of its resources. Current regulations allow for provision of subsidized firewood to rural communities using an unsustainable scheme with striking disconnect between volumes of timber extraction and the rate of natural regeneration of forests. A new forest code that phases out this approach is currently being considered by the Parliament. Hunting regulations are not supportive of the preservation of Georgia's wildlife and sustainable use of biodiversity, and fail to effectively discourage poaching, but their revision meets strong opposition from interest groups.<sup>24</sup>

**National legislation mainly focuses on protecting and conserving species and less so on preserving habitats.** The Law on Red Book and Red List of Species prohibits any activities that would damage habitats that support species under protection, meaning that any proposed activity in such habitats must prove that the proposed mitigation measures are sufficient to meet this requirement. However, despite this general statement, prohibiting or allowing various types of activities within habitats actually depends on whether they are included into formally designated protected areas or not. Unlike ESF, the national system does not differentiate between transformed, natural and critical habitats, and does not prescribe differing regulation for them. Hence, there is no effective mechanism for preserving habitats of high biodiversity value outside the boundaries of protected areas. A new draft law on biodiversity intends to classify habitats by their biotic and abiotic features as well as by

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<sup>24</sup> As of May 21, 2020 a new Forest Code of Georgia was approved.

their health and assign protected or strictly protected status to various categories based on these merits.

**National legislation does not provide definition of or requirement for biodiversity offsets.**<sup>25</sup> Offsets may be provided to a limited extent based on international treaties ratified by Georgia, such as the Ramsar Convention on Wetlands of International Importance Especially as Waterfowl Habitat and the Bern Convention on the Conservation of European Wildlife and Natural Habitats.

**Ecosystem services are not referred to in the national legislation.** However, various laws make general statements about the government's obligation to sustain a clean and livable environment for the benefit of citizens and to require that forests, biodiversity, water, and other elements of natural capital are used in the manner sustaining their protective, productive, recreational, and cultural functions. The term *ecosystem services* is introduced in the new laws on forests and biodiversity that are currently in draft.

## Implementation and Enforcement Gaps

**The Agency of Protected Areas and its territorial administrations are encouraged to generate own revenues and are allowed to retain them, which creates both positive and negative incentives.** Development of tourist infrastructure within protected areas, renting out equipment, providing guide services, etc. fits nicely into the national priority of making tourism a powerful engine of growth, with nature and adventure tourism being Georgia's international trademark. However, sometimes, protected areas suffer if nature conservation objectives are compromised in the strive for maximizing income. Although the Law on the System of Protected Areas is explicit about types of activities allowed in various types of protected areas as well as in various zones within a protected area, it leaves room for the management plans of individual protected areas to specify individual investments and actions which do not always align with the spirit of this law.

**No detailed guidance and methodological support are provided to local governments and other public and private landowners for protecting habitats outside of designated protected areas and beyond jurisdiction of MEPA.** This includes habitats under the protection of the Emerald Network. A new law on biodiversity, with broader coverage of habitat management, is currently in draft.<sup>26</sup>

**Since payments levied on tree extraction are not earmarked to compensate a particular impact on the affected ecosystem, tracking the use of compensatory payments is difficult for the interested parties as the mechanism lacks transparency.** Collected payments are generally designated to sustain forests, without specific links to the nature and scale of the damage inflicted in an individual location. The use of the collected amount is authorized for any legitimate expense of public entities mandated to manage forests and their wildlife. In practice, it is difficult to track and monitor how compensatory payments to the state budget for tree cutting are being used.

25 Biodiversity offsets are conservation actions intended to compensate for the residual, unavoidable impact on biodiversity caused by projects, to ensure at least a no net loss of biodiversity and, where possible, a net gain.

26 A network of areas of special conservation interest to conserve wild flora and fauna and their natural habitats in Europe, which was launched in 1989 by the Council of Europe as part of its work under the Bern Convention on the Conservation of European Wildlife and Natural Habitats. Georgia is a party to this convention and has a number of designated as well as proposed and nominated Emerald Network sites located both inside and outside of protected areas designated under the national law.

**The implementation and enforcement of the current “social cuts” regulation for firewood extraction are deficient in deterring illegal operations, and thus contributes to the depletion of forest resources.** Rules for “social cuts” for firewood extraction allow any eligible citizen to enter a forest and extract marked-up trees. Authorizing multiple individuals to enter forests for tree cutting is challenging to enforce and results in an abuse of the system that was established to support the vulnerable, as well as in significantly deteriorating forest cover. This practice undermines efforts and investments into conservation of forests, and also threatens the sustainability of ecosystem services because firewood harvesting in the volume well exceeding the rate of the forest’s natural regeneration depletes the resource base in the medium-term perspective. A more sustainable and well-regulated practice that balances social needs for heating with forest preservation should be adopted for the country and well enforced.

**Animal safety regulations are being adopted but the knowledge and capacity to implement and enforce them is still limited.** The Food Products/Animal Feed Safety, Veterinary and Plant Protection Code (2012; last amended in 2019), which carries provisions for the ethical treatment of farm animals, entered into force in 2020, however there is minimal experience and capacity for translating these requirements into farming technologies and practices.



## Cultural Heritage (ESS8)

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*National legislation provides a solid basis for protecting cultural heritage, including tangible and intangible cultural properties. All proposed investments and strategic documents are subject to screening for possible impacts on cultural heritage and the incorporation of respective measures according to the mitigation hierarchy. No specific regulations are in place for the commercial use of cultural assets. Natural features of cultural significance are not covered by legislation currently in force but are included in the draft law on biodiversity. Spatial and urban planning procedures include provisions for protecting immovable cultural properties and urban heritage but leave gaps for economic development interests to prevail over the restrictions needed to maintain the aesthetic value of monuments. Coordination challenges exist for state management of cultural heritage objects, to which user rights are held by the Church.*

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### Legal Gaps

**National legislation comprehensively covers many aspects related to cultural heritage.** The Law on Culture (1997; last amended in 2019) mandates the State to acknowledge the general cultural values of humankind, support cultural development and international cultural relations, ensure the availability of cultural assets for the public, and preserve the freedom of every citizen to express his or her own cultural identity. The EA Code provides for assessing the risks and impacts of proposed infrastructural investments and strategic documents on cultural heritage and for addressing negative impacts in accordance with the mitigation hierarchy. The Law on Cultural Heritage (2007) establishes the status of both tangible and intangible cultural heritage. A status of “Living Treasure” is established for persons with exceptional skills who contribute to the intergenerational transmission of intangible cultural heritage. A strong system of national registry is established for recording and accounting for tangible and intangible cultural properties. In addition, Georgia is party to most international treaties related to cultural heritage, including the Convention for the Protection of the World Cultural and Natural Heritage (Paris, 1972), the European Cultural Convention (Paris, 1954), the Convention for Protection of Archaeological Heritage of Europe (La Valetta, 1992), and the European Landscape Convention (Florence, 2000).

**Georgia’s regulatory framework does not contain specific requirements or provisions regulating the commercial use of cultural heritage.** Only a general prohibition of any deliberate act that threatens to irreversibly damage or destroy cultural property applies. Provisions for the fair and equitable sharing of benefits from the commercial use of such cultural heritage are absent. As such, there is limited regulation and a higher risk that cultural heritage monuments may be used unsustainably by commercial actors and that the benefits from them may not be equitably shared by the population.

**The national legislation provides adequate coverage and protection for the built heritage, movable cultural heritage, and archaeological sites and material, but it does not define or protect natural features with cultural significance.** Background research and public consultations, undertaken for investment projects as mandated by the EA Code, identify elements of the natural environment that carry importance for local communities and take respective decisions on a project design. Hence, the gap may be made up in case the best use is made of the consultation process, but shortfalls are likely because the requirement is not explicit.

**Lastly, the legislation does not provide streamlined mechanisms for processing and modifying urban development plans.** The Spatial Planning, Architecture and Construction Code sets forth procedures for the development of urban plans in a participatory manner. However, legislation leaves room for adjustments and modifications by involved municipalities when the plans are submitted for their approval. As a result, urban development documentation may be modified without professional evaluation and stakeholder consultation.

## Implementation and Enforcement Gaps

**Spatial and urban planning procedures do not systematically consider cultural heritage.** Protection zones around immovable objects of cultural heritage and urban heritage protection zones are an integral part of spatial development plans and land-use zoning. The Ministry of Education, Science, Culture and Sports is part of the planning process. However, vested interests in economic development can override those in preserving the aesthetic value of immovable heritage.

**Coordination to manage cultural heritage is limited between the State and the Apostolic Autocephalous Orthodox Church of Georgia.** The Church holds the property rights to movable and immovable heritage of a religious nature on the condition that it preserves them; it is also obligated to inform and seek the consent and support of the government on actions aimed at preserving the heritage. In practice, this part of the agreement is not always adhered to, and there are precedents of clergy unilaterally initiating or revising agreed-upon designs of physical works on the heritage objects that are the property of the Church.

**Overall, the system of incentives for maintaining heritage assets by private owners is not effective.** The upkeep of historical properties requires substantial effort and financial cost on the part of owners. Modest tax breaks on work undertaken to protect/restore cultural property at the expense of a private owner are insufficient to stimulate such effort, and the mechanism for enforcing maintenance is weak.



## Stakeholder Engagement and Information Disclosure (ESS10)

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*The Constitution of Georgia, the General Administrative Code, and the EA Code set key principles for stakeholder engagement and information disclosure with regard to development projects. The key gaps with ESS10 exist, in practice, in conducting meaningful consultations; making sure that stakeholders are sufficiently informed on the details of projects to be able to provide feedback; ensuring the participation of vulnerable groups, which requires tailored outreach efforts; and having functional grievance redress systems.*

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### Legal Gaps

**Stakeholder engagement and information disclosure are covered in key legal documents.** These include the General Administrative Code, the EA Code, the Rules of Procedure of the Parliament, and the Decree #2-94 of the Minister of Environmental Protection and Agriculture on Rules of Public Consultation. In addition, Georgia has ratified the United Nations Economic Commission for Europe Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (Aarhus, Denmark, 1998). Georgia is implementing the commitments under the framework of the Open Government Partnership (OGP), which leads to greater transparency of government institutions and greater access to information. One set of the commitments under the OGP specifically relates to improved citizen engagement.<sup>27</sup>

**The General Administrative Code includes some obligations on the part of the government to provide a grievance redress procedure for concerns raised by citizens, although the process is only partially regulated.** The General Administrative Code sets a basis for receiving and reviewing administrative complaints to public entities. Articles 178–201 define the content of administrative complaint, the time frame, and the procedures. The code also outlines on what grounds the acceptance of the complaint can be refused, that is, if the case is being considered and/or already has been ruled by a court or a superior administrative body, if a person filing the complaint is not eligible to do it, if the time frame for submitting a complaint is violated, or if the complaint is anonymous. All government entities are included in the state e-document system, which tracks all correspondence to and between government entities. Any registered complaint is automatically recorded in the system and can be tracked by the designated PIU officials. There are important limitations, however, as the e-document system is limited to written letters, whereas a majority of received feedback and complaints tend to be verbal. The system also does not allow for an easy search or analysis of complaints per project. Spurred by IFI requirements, some PIUs have set up PIU-, donor-, or project-specific grievance redress mechanism databases to be able to monitor and follow up more easily on grievances related to specific projects.

**There are no specific regulations that would ensure that vulnerable groups have access to grievance redress mechanisms or public consultation.** Adequate outreach to all concerned citizens is important, especially because those who may face the greatest obstacles to express their concerns may also be the ones most adversely impacted. Such individuals may include, for example, persons with disabilities who face physical barriers to attend consultation meetings, to see or hear consultation announcements, and to access channels for submitting complaints; elderly persons, some of whom may face similar constraints; ethnic minorities who do not read or speak the national

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<sup>27</sup> More details can be found on the OGP website, <https://www.opengovpartnership.org/members/georgia/#commitments>

language; and women, working parents, or other caregivers who are unable to leave their home and attend face-to-face meetings.

## Implementation and Enforcement Gaps

**Limited staffing of the EA Department makes it challenging to organize quality public consultation for infrastructure projects.** Although the obligation in the EA Code to organize public consultation at every stage, starting from the early screening process, is considered a positive step in the legislation, implementing this regulation remains a challenge due to limited staffing at the relevant department of MEPA. Conducting meaningful and inclusive consultations requires extensive field travel and a time commitment to prepare and disseminate information, announcements, handle the logistics and carry out the consultation, and record all feedback received. In addition, the current EA Code does not envision public participation in modifying the environmental permit. MEPA and the project proponent can modify the permit in specific circumstances, without consulting the public, though there are few examples of such actions to date.

**Grievance redress mechanisms are often applied only to a limited extent.** Even where grievance mechanisms at the PIU and/or project level exist, the rate of recording grievances is low. Grievance logs usually carry only a few entries, and the majority of grievances are addressed by project staff on site and are verbally communicated without being recorded. Grievances addressed to construction contractors are usually not consolidated in the PIU grievance log, and the record of these is lost when the contractors leave the site. Although verbal communication and resolution of grievances locally is to be encouraged, failure to comprehensively capture grievances from multiple channels leads to lost opportunities to be more effective in grievance handling and management. For example, many grievances can remain unanswered simply because they were not posed to the right person or at the right time. Public trust in the grievance system may remain low unless there is a systematic mechanism for recording and responding to all feedback. It should be noted that most PIUs in Georgia implement projects funded by multiple IFIs and by government resources. In this sense, any improvements to their institutional GRM system has positive spillover effect on the management of projects across all government and IFI-funded operations.

**The capacity and resources of PIUs to track and handle grievances also need to be strengthened.** Grievance management is often added to the list of responsibilities of safeguard or resettlement staff even though many grievances are not in their mandate to resolve, without proper referral mechanisms to other relevant parts of the PIU. More recently, some PIUs have established designated staff positions for grievance redress/community liaison functions. RAP and environmental and social management plan documents often refer to grievance redress commissions (GRCs) established at the PIU level and at the local or municipal level. At the local level, these are expected to include the representatives of affected persons and civil society organizations. The practice shows, however, that there is usually little involvement from the municipality representatives or local civil society organizations, and affected persons are rarely included in GRCs. Local-level GRCs are dysfunctional in the majority of cases, or they function for a limited time (for example, while resettlement compensations and land acquisition are being conducted) but then do not meet during the rest of the project implementation period. Grievances are being forwarded directly to the central PIU offices. This is a lost opportunity because central PIU staff may lack the local knowledge or opportunity to quickly follow up and resolve the issue, and grievances tend to remain open for a long time.



### III. Conclusions and Recommendations

**Findings from this assessment demonstrate that the national legislation of Georgia is continuously advancing and becoming better aligned with good international practices on environmental and social sustainability; however, legislation, policy and institutional practices still need to be strengthened in a number of important areas.** Aspects of national law and practice, where significant gaps with the objectives and requirements of ESF exist, are likely to be more challenging to implement and monitor, and are more likely to create greater risks to the environment and to communities within IFI-, private sector-, and government-funded projects alike. Technical assistance and capacity-building tailored to these aspects are needed to improve the long-term environmental and social sustainability of not only World Bank funded interventions but also all other investments within Georgia.

**In order to prioritize and channel technical assistance most effectively, the government of Georgia may consider the creation of a structured action plan and thematic working groups within the relevant policy institutions.** Such an action plan could build on already established structures, such as the working groups on labor and working conditions (led by the Labor Inspection Department), on citizen engagement in regional development (for example, led by MoRDI), among others. New areas of cooperation among government agencies and IFIs can also be established in key environmental and social areas where coordination is currently weaker (such as social impact assessment and inclusion of vulnerable groups, resettlement compensation and valuation, waste management, water management). Project implementing entities should have a key role in technical working groups. Furthermore, donor coordination when conducting institutional gap analysis and capacity building/training of specific project implementing institutions should be ensured to achieve more efficient use of resources, better quality of training outcomes, and consistency of adopted practices within PIU agencies.

**The recommendations from this report can be divided into four general categories: legislative, policy, institutional, and project-level.** At the legislative level, a majority of key gaps will be addressed by finalizing the adoption of updated laws and amendments as per Georgia's EU Association Agreement. Furthermore, it would be necessary to develop secondary legislation and guidelines in key areas to allow more specificity and better enforcement of the requirements. At the policy level, priorities include empowering and building the capacity of key policy institutions, including through trainings and continuous guidance, to monitor and enforce legal requirements. At the institutional level, sustainable improvements in environmental and social performance can be achieved by establishing environmental and social management systems within project implementing agencies that become embedded in their organizational structure, policy, and staffing. At the project level, raising the quality and efficiency in project preparation and monitoring, for example, by adopting common operational frameworks that meet the standards of both IFIs and national legislation and can be applied readily in government- and donor-funded projects. More detailed recommendations on the salient issues for each ESS are presented below.

## Legislation

**Under ESS1 (Assessment and Management of Environmental and Social Risks and Impacts), the key recommendations from the gap analysis refer to introducing guidelines for conducting social impact assessments, and for the monitoring of environmental and social risks and impacts.** In particular, this may include requirements to adopt differentiated measures so that adverse impacts do not fall disproportionately on the disadvantaged and vulnerable groups, and so that the development benefits from the project can be equitably shared. More clarity on the content and process of social impact assessments also need to accompany the EA Code in order to ensure that substantial adverse impacts would not fall on people and communities with potentially irreversible poverty impact. Another area where the legislation can be improved is greater clarity on the monitoring adherence to the established ES mitigation measures and the use of monitoring outcomes for adaptive management of risks. The EA Code is explicit about fines and other penalties applicable to the project proponent in the case of severe non-compliance, but it falls short on defining the role of MEPA in monitoring permitted works and facilitating good environmental performance by supervision, guidance, and hands-on management of emerging risks. There is ample experience accumulated all over the world showing that activities of modest scale and scope, believed to carry medium risks, may turn problematic without any due diligence applied to their ES. In this light, Georgia's present system of ES assessment would benefit from ruling in a simplified mechanism of ES management for activities not requiring full-scale EIA, including communication of the expected ES risks and impacts of such activities to stakeholders. Most fines for non-compliance are not sufficient for altering behavior and preventing recurrence of infringements. Lastly, to ensure the meaningful application of the public consultation requirements, more specific guidelines are needed on the type and quality of information and its dissemination prior to conducting consultations to ensure that citizens can participate and contribute in an informed manner. Easier access to records of public consultations and stronger accountability for incorporation/rejection of public feedback received through the consultation process are also desired.

**Under ESS2 (Labor and Working Conditions), the recommendation is to introduce a national monitoring and enforcement mechanism for the Labor Code, which currently does not exist outside of the judicial system.** This can be achieved by expanding the mandate of Georgia's Labor Conditions Inspecting Department. Currently, this department has a mandate to enforce only the Law on Labor Safety and the Law on Combating Human Trafficking. Its powers do not extend to enforcing the Labor Code. Other legal gaps can be filled by Labor Code amendments or secondary legislation that specifies the parameters of allowed overtime work, minimum wage, benefits, protections with regard to young workers, and part-time workers, among others.

**Under ESS3 (Resource Efficiency and Pollution Prevention and Management), a priority recommendation is to improve the legal framework for water management; improvements in mining legislation, energy efficiency, and waste management are also needed.** To achieve sustainable management of water resources, Georgia should adopt watershed-based planning of water use with full consideration of sustainability, pollution control, ecosystem service provision, and the equity of access among various users. Mining legislation could be revised to provide stronger incentives for efficiency, enhance environmental and social responsibility of developers, address gaps in mining waste management, and assess the cumulative impacts of multiple individual operations on the same source, such as gravel and sand extraction from numerous quarries authorized along the same river. Respective government institutions (such as Ministry of Economy and Sustainable Development with regard to energy efficiency; Ministry of Regional Development and Infrastructure

with regard to waste management) may also consider providing stricter enforcement measures, as well as stronger economic incentives to stimulate energy efficiency and recycling/recovery of waste.

**Under ESS4 (Community Health and Safety), the recommendation is to address issues related to labor influx and dam safety.** This may include, for example, guidelines for civil work contractors that regulate their relations with local communities to ensure the safety of communities, especially in projects that require setting up of workers' camps or a large inflow of migrant workers. The adoption of self-standing and comprehensive dam safety regulations would also be recommended. Both issues are anticipated to become increasingly important for Georgia if large-scale infrastructure projects, including dam construction, are expected to grow. Clarity in regulations regarding safe distance of all types of linear infrastructure from residential areas is also recommended to ensure better public awareness and avoid damages to property and human health.

**Under ESS5 (Land Acquisition, Restrictions on Land Use, and Involuntary Resettlement), the key recommendation is to develop and ensure stronger enforcement of regulations for compensation valuation methodology.** This refers to the valuation of land, as well as any other losses that citizens may incur as a result of development projects: loss of property, residential or non-residential structures, business income or livelihood. The enforcement and regulation of the valuers' profession, including training, accreditation, availability of a diverse pool of trained valuation professionals, quality standards in the valuation provided, among others, should also be strengthened. This would help ensure that no project-affected persons remain 'worse-off' as a result of investment projects, and that there is consistency of approach across compensations provided by different investors (public, private, government or IFI-funded). There have been attempts to achieve a "law on valuation", but it has never materialized. Thus, the valuation field remains effectively unregulated by the Georgian legislation. The only law that is applied in relation to the valuation practice is the Law on Accounting, Reporting and Audit, which is completely different in nature than what should be required of valuation experts and the valuation practice more generally.

**Under ESS6 (Biodiversity Conservation and Sustainable Management of Living Natural Resources), the recommendation is to phase out the current unsustainable practice of firewood provision to rural communities for more sustainable forest management and to develop detailed guidance / methodological support for conserving species and habitats outside of protected areas.** Adoption of the new forest code should be followed by the issuance of relevant bylaws and regulations necessary for its full enforcement. Strong regulatory and institutional basis would be required for replacing social cuts with a viable alternative capable of retaining forest cover while meeting the vital energy needs of rural communities. Adoption of the draft law on biodiversity would be instrumental in preserving forests and other types of ecosystems; defining, recognizing, and preserving ecosystem services; and ensuring the sustainable and equitable use of living natural resources.

**Under ESS8 (Cultural Heritage), the recommendation is to clarify and strengthen provisions for the protection of immovable cultural property in urban and spatial planning regulations and to provide fuller regulatory coverage of the commercial use of cultural resources.** Only a general prohibition of any deliberate act that threatens to irreversibly damage or destroy cultural property is present in the legislative framework. Provisions for the fair and equitable sharing of benefits from the commercial use of such cultural heritage are absent. More advanced regulations and their effective implementation would contribute to better conservation and maintenance of cultural heritage monuments co-managed by the government and the Church.

**Under ESS10 (Stakeholder Engagement and Information Disclosure), the recommendation is to introduce complementary legislation or guideline, and invest in extensive capacity-building of state agencies such as MEPA and various project implementing agencies to improve the quality of public participation, and ensure a more inclusive process, in the design and implementation of development projects.** These may include, for example, (i) guidelines on adopting multiple channels for communication and feedback (for example, in person, via mail/e-mail, telephone, text messages, and traditional and social media) to increase the number of citizens that can receive information and provide feedback; (ii) guidelines with regard to organizing consultations in locations nearest to the public (such as at villages rather than only at regional center locations); (iii) adjusting the timing of consultations so they can be attended by more members of the general public; (iv) in areas of high minority concentration, providing interpretation and translating written materials into their primary language; (v) providing transportation or special assistance to people with mobility impairments so they can attend consultations or reaching out to them in alternative means; and (vi) in socially conservative communities, encouraging separate consultations with men and women to ensure more open participation. Importantly, the national legislation should introduce clear requirements on the transparent management of feedback from consultations, ensuring that they are incorporated or – when they are not – that adequate justification is provided to the public.

## Policy

**Legal advancements will not be translated into practice unless they are backed by strong political commitment and capable, empowered policy actors who can implement and enforce them.** As such, the staffing and capacity building of key ministries and technical staff within policy institutions is critical. This relates both to the recruitment of more and better-qualified experts and their continuous training as well as to the availability of practical and detailed guidelines to support the implementation of laws. Such guidelines also enable accountability as civil society, concerned communities, investors, and all interested parties can have clear expectations about the legal and policy requirements and how they should be implemented.

**Two of the most critical institutions to uphold ESF-relevant legislation are the EA and Environmental Supervision Departments of MEPA.** At present, adequate implementation of the EA Code is significantly constrained by a capacity shortage within these two units of MEPA. The EA Department is directly responsible for screening proposed activities, reviewing scoping and EA reports, assuring their quality, organizing public consultations, and keeping record of these procedures. With approximately 20 staff members and a large volume of infrastructure investments, the review of EA documents and the issuance of environmental permits can be delayed in time or rushed, which compromises the quality of review. In addition, the limited staffing of the EA Department makes it challenging to organize and hold quality public consultations. The conduct of meaningful consultations is similarly impeded by the staff's insufficient knowledge and capacity in the area of citizen engagement, by time pressure, and by the shortage of financial resources. The Environmental Supervision Department carries a tremendously challenging mandate of countrywide control over compliance with environmental legislation. State budget allocations for this department are climbing, but they are still insufficient for adequate coverage of all types of resource use and pollution. Although the department's current focus is on revealing and penalizing lawbreaking cases, in a medium-term perspective, it should also help guide the ES performance of developers, perform reality checks of

their self-monitoring outcomes, and advise on the adjustment of mitigation measures to changing external circumstances.

**The anticipated adoption of transformational legislation to manage water resources, forests, and biodiversity will require creating new areas of expertise in MEPA and its subordinate legal bodies, the National Forest Agency and the Agency of Protected Areas.** Clear needs for capacity building include developing and implementing river basin management plans, administering forest registry and inventory databases, developing and implementing sustainable forest management plans, identifying and valuing ecosystem services, managing the monitoring of Emerald Network sites, designing and provisioning biodiversity offsets, and so forth.

**With regard to labor rights and OHS, both the mandate and capacity of the Labor Conditions Inspecting Department need to be strengthened.** The number of qualified safety specialists needs to be quickly expanded through trainings and support. The knowledge of employers and workers also needs to improve progressively in order to effectively implement the new labor legislation and strengthen enforcement. The latter can be achieved by expanding training and increasing the number of accredited health and safety specialists within enterprises.

## Institutions—Environmental and Social Management Systems

**Ultimately, the day-to-day responsibility for managing the environmental and social impacts in projects rests with the project implementing entities, which may be private or public institutions.** These include government entities and state-owned enterprises that manage large infrastructure projects and continuously maintain and operate infrastructure, such as the Georgian State Electrosystem, the Roads Department of the Ministry of Regional Development and Infrastructure, the Municipal Development Fund of Georgia, and the United Water Supply Company of Georgia. They also include any other company, agency, or PIU that may have a role in project implementation and tracking ES risk management as part of its responsibilities, for example, the project management unit for agriculture and irrigation projects as part of MEPA, the project implementing team within Georgia's Innovation and Technology Agency, and PIUs within the Ministry of Education, Science, Culture and Sport, among others. It is therefore critical for such institutions to have the organizational structure, knowledge, and capacity to not only understand national and IFI ES requirements but also to drive their implementation, monitoring, and enforcement within the realm of their projects.

**Organizations within and outside of Georgia, which manage a large volume of infrastructure works, have invested in the development of internal environmental and social management systems (ESMS).** The Georgia Water Company has adopted such a system, and the Georgian State Electrosystem is in the process of its development. The key features of an ESMS are a clear policy statement stating the commitments of the organization with regard to ES sustainability, endorsement by senior management, allocation of roles and responsibilities within the institution to ensure that all subprojects are screened for ES risks, and mitigation measures are applied and monitored throughout the project cycle. The development of ESMS policies and systems enables a gradual development of professional capacity within the organization. It also enables a more consistent approach toward ES issues regardless of the source of project funding—across government- and IFI-financed works. In the medium and long term, the refinement of internal ESMS processes would also enable institutions to seek international certification on selected ESSs that would not only testify to the quality of their

ES practices in the face of the government and citizens but also would enable them to attract private investment (for those institutions that are eligible for private financing).

**The recruitment, training, and retention of qualified environmental, social, and health and safety staff are at the core of building institutional capacity.** As noted in this report, the pool of qualified specialists and the accreditation and training procedures on key aspects of ESF are still not developed or are at the incipient stages of development in Georgia. Professional qualification opportunities, methodologies, and guidelines in environmental, social, and resettlement risk management; valuation methods; labor health and safety; and communication and stakeholder engagement need to be strengthened. This would require joint efforts by the government, PIUs, and international organizations involved in funding projects in the country.

## Project-Level Interventions

**At the project or PIU level, ES risk management efficiency and quality can be improved by adopting common approaches.** This may be pursued by better coordination among donors and government agencies. For linear projects, such as highways, where multiple donors are involved, it is important to have approaches that are aligned with each other. Even without formally adopting a *common approach* in the safeguard policies of different institutions on specific projects, greater consistency, quality, and efficiency for PIUs can be achieved by agreeing on common frameworks, instruments, operations manuals, or standard operating procedures across government- and IFI-funded projects.

**The same approach can be extended to ES management frameworks and resettlement policy frameworks, or operations manuals that follow stricter IFI standards, which can be adopted and used as a basis for different projects and programs.** Once PIU staff adopt such documents as a routine practice, they can be used as is, or easily adapted to, projects funded by the government or other IFIs. This would reduce the time and cost for PIUs (for example, for outsourcing consultants) to prepare new sets of frameworks. It would also ensure a higher ES performance in all projects. Moreover, the application of consistent processes, entitlement frameworks, and so forth can help raise public awareness about the international standards of environmental management, health, and safety and help to build trust with citizens and civil society.

## Summary

Georgia's unique nature, people, and cultural heritage are the country's richest resources, underpinning its development and growth. Overall, Georgia has made tremendous progress in adopting legislation and policies to protect these resources and ensure that they are sustained for future generations. Still, important gaps remain both in legislation as well as in policy, practices of project implementing institutions, and public awareness and behaviors. This comparative assessment of Georgia's national framework and the World Bank's ESF is primarily carried out to inform Bank project teams and project implementing entities about the key gaps and risks that should be highlighted and managed within Bank-financed projects. Additionally, to the extent to which the World Bank's ESF captures international good practice in ES risk management, this assessment serves as a summary for policy makers and the broader public of the actions and directions Georgia still needs to take to ensure that its most important resources are protected in a sustainable manner.

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