

Assessment of Environmental Performance  
According to the Priorities of the Eastern Partnership Flagship Initiative on  
Environmental Governance

**TOWARDS GOOD ENVIRONMENTAL GOVERNANCE  
IN THE EASTERN PARTNERSHIP COUNTRIES:  
ARMENIA, AZERBAIJAN, BELARUS, GEORGIA,  
MOLDOVA AND UKRAINE**



UNENGO «MAMA-86»  
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This report has been prepared on the basis of assessment of activities of environmental governance bodies in six EU partner countries — Armenia, Azerbaijan, Belarus, Georgia, Moldova and Ukraine — in the core areas of the Eastern Partnership Flagship Initiative on Good Environmental Governance within the framework of the project “Supporting environmental activities of the Eastern Partnership Civil Society Forum Working Group 3”. The assessment for the countries has been conducted by the Civil Society Forum member organizations involved in the Working Group 3 “Environment, climate change and energy security”, namely: Armenia — Association for Sustainable Human Development, Azerbaijan — Legal Think Tank, Belarus — Green Alliance Association, Ecodom public association, Georgia, — Green alternative public association, Moldova — Regional Environmental Centre, Ukraine — MAMA-86 UNENGO, Society and Environment RAC, Environment-People-Law ICF. The methodology used in the assessment is based on a special method for assessing implementation of cooperation action plans by EU partner countries, designed within the framework of the corresponding WWF-EPO project and Heinrich Böll Foundation. The assessment includes assessment tables, conclusions and recommendations on general and specific issues.

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## LIST OF ACRONYMS

AA – Association Agreement with the EU  
AP – Action Plan  
AofA- Agenda of Association  
BC – Basin Council  
CA – City Administration  
CEA – Central Executive Authority  
CMU – Cabinet of Ministers of Ukraine  
CNSDU – Council for National Security and Defence of Ukraine  
CS – Civil Society  
CSF – Civil Society Forum  
CSI – Civil Society Institution  
CSO – Civil Society Organization  
Derzhatomrehuliuvannia – State Inspectorate for Nuclear Regulation of Ukraine  
Derzhekoinspektsiya – State Environmental Inspectorate of Ukraine  
Derzhekoinvestagentstvo – State Agency for Environmental Investments of Ukraine  
Derzhenerhoefektyvnosti – State Agency for Energy Efficiency and Energy Saving of Ukraine  
Derzhheonadra – State Service for Geology and Mineral Resources of Ukraine  
Derzhlisagentstvo – State Agency of Forestry of Ukraine  
Derzhsanepidsluzhba – State Sanitary and Epidemiological Service of Ukraine  
Derzhvodagentstvo – State Agency of Water Resources of Ukraine  
DFEP – State Fund for Environmental Protection  
E – Environment  
EaP – Eastern Partnership  
EEA – European Environment Agency  
EIA – Environmental Impact Assessment  
ENP – European Neighbourhood Policy  
EP – Environmental Protection  
EPI – Environmental Policy Integration  
EU – European Union  
EU WFD – EU Water Framework Directive  
EUAA – EU Association Agenda  
FTA – Free Trade Area  
IACC – Interagency Coordinating Council  
IFI – International Financial Institution  
IRBM – Integrated River Basin Management  
IWRM – Integrated Water Resources Management  
LA – Local Authority  
LAP – Local Action Plan  
LG – Local Government  
LoU – Law of Ukraine  
MDICF – Military and Defense Industrial Complex Facility  
MFA – Ministry of Foreign Affairs  
Minahropolityky – Ministry of Agrarian Policy and Food of Ukraine  
Minekonomrozvytky – Ministry of Economic Development and Trade of Ukraine  
Minenerhovuhillia – Ministry of PA  
astructure of Ukraine (former Ministry of Transport and Communications)  
Minpryrody – Ministry of Ecology and Natural Resources of Ukraine  
Minregion – Ministry of Regional Development, Construction and Housing and Municipal Economy of Ukraine

MoE – Ministry of Emergencies of Ukraine  
MONmolodsportu – Ministry of Education and Science, Youth and Sports of Ukraine  
NAP – National Action Plan  
NEAP – National Environmental Action Plan  
UNENGO - Ukrainian National environmental non-governmental organization  
NGO – Non-Governmental Organization  
NRINEP – National Report on the Implementation of the National Environmental Policy of Ukraine  
NSDS – National Sustainable Development Strategy  
OECD – Organization for Economic Cooperation and Development  
OSA – Oblast State Administration  
PA – Public Authority  
PC – Public Council  
RAP – Regional Action Plan  
RB – River Basin  
Reskompyrody ARC – Republican Committee for Environmental Protection, AR of Crimea  
RLA – Regulatory Legal Act  
RSA – Rayon State Administration  
SD – Sustainable Development  
SDC – Sustainable Development Concept  
SEA – Strategic Environmental Assessment  
SEIS – Shared Environmental Information System  
SNPS – State Environmental Policy Strategy  
SODMENR – State Oblast Department(s) of the Ministry of Ecology and Natural Resources of Ukraine  
SPA – Supreme Public Authority  
SPP – Strategies, Plans and Programmes  
TCU – Tax Code of Ukraine  
TS – Transboundary Cooperation  
UNECE – UN Economic Commission for Europe  
VRU – Verkhovna Rada (Parliament) of Ukraine  
WG – Working Group

## FOREWORD

External factors have always played a decisive role in implementing reforms in 6 EU neighbouring countries. At present, the factor of cooperation with the EU towards European integration is the most influential one for transformations in environmental policy and legislation.

The report “Towards Good Environmental Governance in the Eastern Partnership countries: Armenia, Azerbaijan, Belarus, Georgia, Moldova, and Ukraine” is the first joint assessment of environmental performance in the 6 states according to the Eastern Partnership Flagship Initiative on Environmental Governance, conducted by the Civil Society Forum Working Group 3 “Environment, climate change and energy security”. Activities concerning this assessment should become a working example for development of other initiatives on monitoring and evaluation of the group’s working themes.

### **The Eastern Partnership and the Flagship Initiative on Environmental Governance**

**The Eastern Partnership (EaP)** is a long-term EU project aimed at strengthening relations between the EU and its Eastern neighbours. It extends the Eastern dimension of the existing ENP. The EaP initiative was presented by Poland and Sweden in May 2008 at the EU Council. The initiative assumes participation of 6 neighbouring countries in the Eastern Europe – Azerbaijan, Armenia, Belarus, Georgia, Moldova and Ukraine. In June 2008, the EaP project was supported by all the EU Member States at the EU Council Summit. The European Commission approved the project on 3 December 2008 by issuing the Communiqué on the Eastern Partnership. In its final form, the EU Council endorsed the EaP project on 7 May 2009 at the constituent Summit in Prague. On the same day, a joint Statement was issued according to which the EaP should supplement bilateral agreement relations between the EU and each partner country. Hence, signature of an Association Agreement (AA) is a binding condition for participation in the EaP project.

Multilateral dialogue on several levels is provided for in the EaP framework:

1. Meetings of heads of state and government;
2. Annual meetings of ministers of foreign affairs;
3. Meetings on four thematic platforms: democracy, good governance and stability; economic integration and convergence with EU policies; environment, climate change and energy security; contacts between people;
4. Panels to support platform activities.

The first constituent meetings of all the thematic platforms, during which basic principles and procedures of their activities were agreed upon, were held in 2009. Besides, an intergovernmental **Panel on Environment and Climate Change** was established and started working.

**The EaP initiative pays special attention to mandatory involvement of civil society (CS) in the ENP implementation.** That was the reason for establishing the **Civil Society Forum (SCF)**, which has been existing for three years already, the same as the Working Group 3 (WG3) “Environment, climate change and energy security”. It was created at the 1<sup>st</sup> CSF in 2009 in Brussels and is coordinated by two elected coordinators – one from an EU country and another from a partner country.

WG3 comes out for the best possible implementation of horizontal environmental legislation to ensure environmental policy integration (EPI) as the foundation for the European environmental policy reform and transition to green economy in the EaP partner countries. The reform requires substantial and mandatory reinforcement of environmental governance. In its recommendations approved at the CSF II, **WG3 defines the EPI as a goal that must be achieved for industry, transport sector,**

**regional development, agriculture, forestry, water management, budgeting, and adaptation to EU acquis.** In the EU, environmental policy integration is legally binding and being achieved by horizontal instruments such as environmental impact assessment, strategic environmental assessment (SEA), public participation in the environmentally important decision-making process, access to environmental information, and environmental reporting.

**The EaP Flagship Initiative on Environmental Governance** includes two key focus areas:

1. Development of the Shared Environmental Information System (SEIS), coordinated by the European Environment Agency (EEA).
2. Strengthening of capacities to ensure stakeholder involvement, environmental assessment and reporting, on the basis of the EU experience and legislation, and in line with the UNECE Conventions on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention) and on Environmental Impact Assessment in a Transboundary Context (Espoo Convention).

At present, a variety of opportunities is opened to the EaP for supporting partner countries and their civil society representatives to ensure better public participation and access to information, strategic planning, mainstreaming of environmental requirements into the decision-making process at an early stage, better environmental governance, and elaboration of recommendations to overcome barriers on the way of reforms.

However, to make the best use of these opportunities, civil society organizations must better understand, collect and analyse in comparison the situation in each of the 6 countries, and try to unify their approaches in WG3 coordination. On the other hand, the WG3 members need close cooperation among themselves to strengthen their voice in a dialogue with the European Commission and national governments for implementation of environmental policy reforms.

Since some EU neighbouring countries demonstrate a low implementation rate of activities provided for by relevant APs in the environmental protection domain, and deadlines of those activities are frequently shifted to a later stage, efficient achievement of the goal set forth by WG3 **requires continuous independent monitoring with a variety of assessments, especially in the field of SD and its environmental pillar.** The best example of independent assessment of the environmental pillar in the neighbouring countries consists of the “Assessing implementation of the European Neighbourhood Policy Action Plans in Azerbaijan, Armenia, Georgia, Moldova and Ukraine” conducted in 2008-2009 by environmental NGOs and coordinated by WWF-IPO.



# INTRODUCTION

## **Project “Supporting environmental activities of the Eastern Partnership Civil Society Forum Working Group 3”**

The assessment conducted has been a result of the joint project by the members of WG3 “Environment, climate change and energy security”.

**The goal of the project** is to strengthen cooperation among WG3 members from the partner countries (Armenia, Azerbaijan, Belarus, Georgia, Moldova, Ukraine) in their joint activities for environmental policy reform in the partner countries towards the EaP environmental priorities using Ukraine as a best practice example in the preparation and adoption of the State Environmental Policy Strategy of Ukraine through 2020 (SEPS) and the National Environmental Action Plan of Ukraine for 2011-2015 (NEAP) as well as in public participation in those processes.

### **The project objectives include:**

1. Considering the implementation of the environmental pillar of the cooperation between the partner countries and the EU (bilateral, EaP, and ENP) as well as NGO contribution.
2. Developing a unified approach to monitoring and evaluation of Environmental Policy reform in connection with the EaP priorities.
3. Enhancing access to information, communication and public participation in ENP/EaP on environmental matters.

One of the central project elements is preparation of an independent assessment of environmental policy reform implementation for realization of **Good Environmental Governance** for approximation to EU policy and law and NGO contribution. The assessment was conducted with financial support from the European Programme of the International Renaissance Foundation, the Embassy of the Republic of Poland in Kyiv, and UNENGO MAMA-86.

The annual meeting of the Eastern Partnership Civil Society Forum Working Group 3 “Environment, climate change and energy security” was held in Kyiv on 23 June 2011. It involved representatives of civil society organizations – members of the Civil Society Forum Working Group 3 (WG3) from the EU and 6 partner countries – Azerbaijan, Armenia, Belarus, Georgia, Moldova and Ukraine – as well as guests and observers. The meeting was organized by MAMA-86 Ukrainian National Environmental NGO with financial support from the European Union and with participation of the Friedrich Ebert Foundation. **The participants came to the conclusion that the WG3 efforts to prepare the CSO Assessment Report on the EaP environmental pillar implementation and to present it to the CSF III should result in WG3 regular monitoring and assessment activities.**

**Presentation of the project goals and assessment methodology as well as discussion on some matters of review and assessment were held on 24-25 June 2011 in Kyiv**, at the Expert Workshop “Eastern Partnership CSF Working Group 3 assessment of environmental policy reform in 6 partner countries”. Participants from 6 EaP partner countries, together with representatives from international NGOs discussed key issues of environmental policy reform for sustainable development in Azerbaijan, Armenia, Belarus, Georgia, Moldova and Ukraine in the cooperation framework with the European Union. The workshop was financed by the Friedrich Ebert Foundation and co-funded by the European Commission, the European Programme of the International Renaissance Foundation, and the Embassy of the Republic of Poland in Kyiv.

Separate expert panels dealt with the exchange of information on the **implementation status of the Aarhus Convention in the countries** (the UNECE Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters), the **Espoo Convention (the UNECE Convention on Environmental Impact Assessment in a Transboundary Context), and protocols thereto.**

Also, the experts prepared and presented country reports on one of the most complicated topics in the environmental Flagship Initiative - on implementation of the project on creation of the Shared Environmental Information System (SEIS) in the project countries – compatible with the EU system. Translation of scattered data into the information for decision-making is a mandatory capacity of the modern state environmental governance system that provides an opportunity to measure an environmental impact and determine effectiveness of various policy instruments for reducing environmental damage. Only having a complete indicator-based measuring and recording system allows engaging in greening of economy efficiently.

Special interest was caused by reviews provided by independent experts from the 6 countries concerning the overall situation in environmental policy development, **considering both the priorities of cooperation with the EU and those of the EaP Flagship Initiative on Environmental Governance.**

### **Assessment methodology**

The assessment was conducted in accordance with the uniform methodology developed in close cooperation between the World Wide Fund for Nature (WWF) and Heinrich Böll Foundation, with NGO involvement, for the project “Assessing implementation of the European Neighbourhood Policy Action Plans in Azerbaijan, Armenia, Georgia, Moldova and Ukraine” conducted in 2008-2009.

The methodology was developed in a way, allowing it to be applied to assessment of any AP of a national government and the EU for any neighbouring country. However, it was designed for a period UNTIL commencement of the negotiations on the Association Agreements in the EaP framework. In most EaP countries, ENP APs expired in 2009. Since the APs were developed according to a certain number of common priorities and had common goals to be achieved during the AP implementation, they had much in common. The AAs in various EU neighbouring states will also have much in common, which allows comparative assessments to be made.

The goals, determined mainly by the objectives of the project and of the Flagship Initiative on Environmental Governance, were taken as a basis of questions, that assessment document should cover.

The following questions were chosen for the present assessment:

- Question 1. Strengthening cooperation with the European Union
- Question 2. Strengthening administrative structures and procedures
- Question 3. Developing strategies, plans and programmes on environmental protection
- Question 4. Ensuring integration of environmental issues in other policy areas (promotion of sustainable development)
- Question 5. Strengthening structures and procedures to conduct environmental impact assessment
- Question 6. Improving access to information and public participation
- Question 7. Cooperation in the area of development of the Shared Environmental Information System (SEIS)

It is important to stress that following assessment does not deal with questions of ratification and realization of all important environmental protocols and conventions, but only considers Aarhus Convention and Protocol on Pollutant Release and Transfer Registers and Espoo Convention with SEA protocol, that are relevant for Flagship initiative. Sub-questions on these multilateral environmental agreements are incorporated.

The assessment procedure, according to the methodology suggested, included the following key stages:

1. Defining additional questions, updating existing ones, and eliminating questions deemed irrelevant.
2. Data collection. Official information sources were used, and consultations with representatives of the NGOs concerned were held.
3. Revising questions for answering which the information was insufficient.

Based on the tables of sub-questions/indicators already designed within the WWF-IPO project framework, some additions and a new SEIS questionnaire were suggested; then they were discussed and adjusted by the participants. NGO experts ranked their answers to the questions in the 0-3 grade range. By means of summing up the grades, given to sub-question answers, a progress indicator was calculated as percentage of the maximum sum of grades (a product of 3, the greatest grade, and the number of sub-questions assessed). Based on such an approach, an indicator for each goal can be compared, when subsequent assessments are made.

For every indicator designated with a certain grade, a concise explanation is provided, indicating specific actions or processes that substantiate the choice of some or other assessment grade.

Apart from the tables, assessment of each question also includes possible in-depth substantiation of assessment for each question or question group. Besides, summary conclusions concerning achievement or non-achievement of a goal were developed, and recommendations for improving implementation of a specific question were suggested.

It should be pointed out that the assessment participants were extremely limited in terms of time but, nevertheless, the first step has been made in the establishing a regular procedure of environmental governance assessment as a WG3 process activity. Further on, the methodology will be improved on the basis of lessons learned by the participants as well as by means of joint review of question specificities and method limitations.

## **GENERAL CONCLUSIONS**

Assessment was conducted over the period since 2008 when the 6 countries' Action Plans for Cooperation with the EU were coming to an end and preparation for negotiations on the Association Agreements with the EU (AAs) / negotiations on the AAs commenced. Assessment on all the questions was conducted according to the methodology described above, and the rate of achievement of some or other goal on environmental governance and sustainable development was determined as percentage. Preliminary findings were discussed by the Working Group 3 "Environment, climate change and energy security" at the Civil Society Forum III in Poznan. After processing of comments, the experts prepared a final version of the assessment. Full texts of assessment tables, comments and explanations, conclusions and recommendations are included into the report.

The best results were demonstrated by Armenia and Moldova (average total score 58.4% and 56.7%, respectively). The next were Ukraine (50.5%) and Azerbaijan (48.8%) , followed by Belarus (35.4%). The lowest position, according to the assessment, was occupied by Georgia that, according to an expert, reached only 21.3%.

**Table 1. Overall assessment findings**

Country	Question (%)							Average	Ranking
	Strengthening cooperation with the European Union	Strengthening administrative structures and procedures	Developing strategies, plans and programmes on environmental protection	Ensuring integration of environmental issues in other policy areas (promotion of SD)	EIA (environmental due diligence)	Access to information and public participation	Cooperation on SEIS		
	1	2	3	4	5	6	7		
Azerbaijan	46.7%	66.7%	57.6%	25.6%	59.3%	60.0%	25.4%	48.8%	4
Armenia	63.3%	68.0%	66.7%	57.6%	63.6%	56.9%	33.3%	58.4%	1
Belarus	26.7%	54.5%	33.3%	25.0%	46.1%	34.5%	27.7%	35.4%	5
Georgia	50.0%	11.1%	16.7%	7.4%	13.3%	24.1%	26.6%	21.3%	6
Moldova	66.7%	56.9%	60.6%	49.3%	61.7%	60.0%	41.7%	56.7%	2
Ukraine	63.3%	59.7%	69.0%	47.2%	33.3%	28.2%	53.0%	50.5%	3

## **In most countries, NGOs are not involved in discussion on AA/EUAA environmental priorities**

Although most experts rather highly estimated the status of cooperation of their countries with the EU, the environmental pillar of the AA negotiations remains little known to the public, and NGOs are often not involved in discussion of environmental priorities, or involved occasionally, without any kind of procedure. Ukraine was the first to begin the AA negotiations, in 2007, and the AA is currently expected to be signed in December 2011 but political complications can shift the date to 2012. Armenia, Azerbaijan, Georgia, and Moldova started the AA negotiations in 2010. Belarus did not adopt an Action Plan for Cooperation with the EU, and has been conducting the AA negotiations.

**Moldova**, leading in “strengthening cooperation with the European Union” (66.7%), intensified its efforts on structural reform based on a strong European integration programme. European integration is a key requirement in domestic and foreign policy of the Republic of Moldova. Dialogue with CS improved, and measures were taken to increase transparency of decision-making by public authorities. However, it is necessary to hold consultations with NGOs on the content of the EUAA environmental section. **Armenia** and **Ukraine** were assessed by experts equally in terms of their total score (63.3%), and rank second. Within the framework of the AA preparation negotiating process, Armenia reached agreement with the EU concerning the timeframe of implementation of the EU environmental directives. Consultations with NGOs on the EUAA environmental pillar were not held. Ukraine reached the greatest progress in preparation of its AA. The core environmental EUAA priority has been met – preparation and adoption of the State Environmental Policy Strategy through 2020 and the National Action Plan through 2016, which was a binding condition for provision of EU sector budget support to Ukraine in the environment protection area. NGOs were involved in development of EUAA priorities, but the consultations were confidential. **Georgia (50%)** declared the priority of European and Euro-Atlantic integration by a parliamentary resolution as far back as 2003; the process of European integration is rather formalized and relevant institutions were established. The national government holds high-level meetings twice a year to discuss progress achieved in the ENP Action Plan implementation, and they are open to NGOs. The European Integration Minister has regular meetings with the EaP CSF National Platform. However, during the recent years there was more than scarce progress in harmonizing the environmental legislation to EU aquis, as well as in the process of ratification and implementation of UNECE conventions, while public participation decision-making was diminishing. As a result, no consultations with NGOs on the AA environmental section and the EUAA environmental priorities were held. **Azerbaijan (46.7%)** has been already completing the AA negotiations despite they began in July 2010. The government does not officially provide information on the course of the negotiations to the public; officials describe such information as confidential. The EUAA was not developed, and the public was not involved in discussion of the AA environmental pillar. It is not known whether it is present in the AA draft at all because, according to unofficial information, the negotiations are going on in 4 sections only: politics, economy, human rights, and trade.

Generally, the public in all the countries is not aware of the AA draft contents, including environmental section. Belarus has no negotiations on cooperation with EU since its integration vector is turned in the eastern direction. At the same time, in development of environmental legislation, European regulations and standards are considered by developers as the most progressive ones and are often taken as a basis.

## **The latest public administration reform weakens administrative structures and procedures**

The ENP and EaP policy allowed the 6 EU neighbouring countries to be looked at in the light of unified approaches. However, each of these countries has its own peculiar features of public administration, with a very wide gap in their state administrative machinery reformation stages. Former similarity of socio-political systems, inherited from the Soviet-era command-administrative

management methods, is actually not noticeable now. However, transition to market economy within the framework of rapprochement with the EU generally causes similar tendencies of weaker environmental requirements to the development policy. The ENP and EaP mechanisms and procedures, already acquiring real and visible forms, e.g. the sector budget support mechanism, accompanied by concrete actions, allow hoping on mitigation of this tendency.

In terms of strengthening administrative structures and procedures, the highest and identical scores were given to **Armenia (68%) and Azerbaijan (66.7%)**. In **Armenia**, a number of commissions for environment and SD are active under the President and the Prime Minister, consisting of the MEP and representatives of the public and working on the interagency basis. The commissions do not duplicate the MEP function but rather assist in performing it. Although no State Fund for Environmental Protection has been established in the country, collection and purposeful use of environmental payments is taking place according to law, and their total amount is constantly growing (as per the Law on the Rate of Environmental Payments 2007). The environmental inspectorate is a stand-alone structural unit within the MEP system having oblast-level territorial divisions. Overall, cooperation among various stakeholders has improved. The NEAP in force (2008-2012) includes tasks of institutional reinforcement of the environment management system. In **Azerbaijan**, the State Fund of Environmental Protection has been established, and its revenues have grown almost fourfold during 2007-2010 due to adoption of the Law on increasing administrative penalties 1.5-2 times (2009) as well as owing to better monitoring of company operations. Azerbaijan is the only country where experts have ascertained toughening of environmental monitoring of company operations. Azerbaijan's Ministry of Nature has territorial bodies of inter-district administration under the Environmental Protection Department that acts as the State Environmental Inspectorate. All intra-government consultations are coordinated by the Ministry of Nature but managed by the Cabinet of Ministers. Stakeholder cooperation has not improved since the commencement of the AA negotiations. The institutional reinforcement tasks, included in previous strategies, have been mainly performed.

**Ukraine (59.7%)** has been implementing a new administrative reform, and an active phase of reformation of CEAs in the EP area has begun in 2011. Agencies, managing forest and land resources, hydrometeorological service, etc., have been withdrawn from Minpryrody subordination and transformed into State Agencies and Services. The State Service for Protected Areas has been liquidated. The new Regulations on Minpryrody do not include territorial bodies. The existing oblast-level departments will be subordinated to oblast administrations beginning from 2012. At present, it is difficult to analyse consequences of the current reform, but NGOs describe them negatively and believe that they have already weakened Minpryrody, already not very influential in the CEA system. Special concerns are related to supervision of construction of potentially environmentally dangerous facilities as well as to limitation of the public's opportunities for taking part in decision-making on business operations that affect environment. In particular, Minpryrody's proposals during adoption of a new Law on Urban Planning Activities were rejected by the CMU, due to which state environmental due diligence and the public's right to take part in EIAs were eliminated. DFED revenues have increased almost twice since 2007 and reached 1,374.2 million hryvnias (about EUR 120 million) in 2010.

**Moldova (56.9%)** has a branched system of institutions that are subordinated to, or coordinated by, the MEP and that do not duplicate the ministry's and each other's functions. The country established the national and local environmental funds, and their revenues grow all the time due to the Law on payment for pollution. Accordingly, resources arrive from the payment for the commodity import, if during commodity producing environment is polluted. These funds are used solely for their intended purpose, namely for waste management, as well as for air quality improvement. The environmental inspectorate is not a separate unit, but the part of environment agencies and has territorial units. The

MEP cooperates with NGOs actively, and interaction with various stakeholders has generally improved since the commencement of the AA negotiations.

**Belarus (54.5%)** maintains a distinct and structured vertical system of EP state management although there are some authority-division problems in certain work areas; besides, coordination is also problematic with other CEAs, especially with the Ministry of Economy and the Ministry of Energy that often block decisions, made by the Ministry of Natural Resources. Over recent 5 years, resources of the State Fund for Environmental Protection have increased but national currency devaluation in 2011 has levelled these achievements. The public is unaware of any case when the Fund's monies were used not as intended.

**Georgia (11.1%) undergoes under the** permanent reformation of environmental governance system recent years. This entails a neglect of environmental concerns when making important decisions. Recent years could in short be characterized as follows: very high rate of turnover of management of Ministry of Environmental Protection [and Natural Resources]; endless structural changes without prior efficiency study of previous changes; dismissal of the old staff and recruitment of new, mostly incompetent and inexperienced personnel; lack of responsibility or commitment to the decisions of previous management at all levels – starting from the Minister and ending with average civil servants that in addition do not have any motivation to improve performance. Added with frequent structural changes, the fear of the reforms and uncertainty about the future practically paralyze the institutions and causes inaction, slow decision-making and reluctance to carry out routine responsibilities.

Environmental protection does not represent the priority for Georgia's government, which is directly reflected in budget. Since 2005 the medium term expenditure planning instrument was integrated and institutionalized in Georgia's budgetary processes. There sources for environmental purposes (mainly costs of administration) are allocated in the budget accordingly. However, despite the overall budgetary revenues grow, the environmental protection expenditures are planned in a way that they will decrease in relation to GDP in forthcoming years. E.g. environmental expenditures in relation to GDP decreased from 0.2% to 0.1% over 2007-2009. The purely environmental protection measures are implemented only through international donors support.

### **Strategic planning was considerably improved in the countries that have advanced in the AA negotiations most of all**

A considerable breakthrough in strategic planning was achieved by **Ukraine (69%)**. Within the framework of meeting the Association Agreement Priorities, Ukraine developed and approved the most recent documents of state environmental policy: the Strategy (Law of Ukraine on Basic Provisions (Strategy) of the State Environmental Policy of Ukraine for the Period until 2020 (21.12.2010, No. 2818-VI) and the NAP until 2016 (CMU Executive Order No. 577-p of 25 May 2011). A considerable role both in compliance with time limits and in quality of contents was played by the stimulus, concerning mandatory availability of such documents for obtaining sector budget support from the EU. NGOs played and are playing a very active role in the preparation, adoption, and implementation and monitoring of these policies. The Strategy has qualitative differences from all the previous documents of this kind in that it contains modern principles, a realistic approach, prioritization of goals and objectives, a monitoring and reporting mechanism, and performance indicators. That is, this policy is measurable, which gives the hope for comparative reporting that can be used to determine effectiveness of some or other measures, aimed at overcoming the generally critical environmental situation. The plans outlined are ambitious enough, but nevertheless feasible. The recently established interagency EU-Ukraine Joint Monitoring Group to oversee implementation of the EU budget support within the NAP framework is a significant body that supervises fulfilment of individual NAP activities. Nevertheless, either the SD Concept or the SD Strategy has still not



been developed in the country. National reports on environment conditions are issued not regularly; two most recent ones, for 2009 and 2010, were not made public at all, though prepared.

**Armenia (66.7%)** is implementing its second-generation NEAP (2008-2012) that was composed with account of national priorities and modern approaches towards environment management. NGOs believe that some of the activities are not implemented efficiently. The key conflict between NGOs and authorities unfolds exactly in the implementation domain. National reports are not regularly prepared, and alternative information is made public in limited amounts, mostly on the Ministry of Environment and state statistics committee web-sites (annual bulletins are also being published), however access to this information is possible only with corresponding technical equipping (access to internet). **Moldova (60.6%)** developed, to secure implementation of tasks set forth in the Government's Programme of Activities "European Integration: Freedom, Democracy, Welfare" for 2011-2014: the Programme of Economic Stabilization and Recovery of the Republic of Moldova for 2009-2011, endorsed by the Government Resolution No. 790 of 1 December 2009, the National Development Strategy for 2008-2011, approved by the Law No. 295-XVI of 21 December 2007; and the Commitment to the Partners under Government Action Plans for 2011-2014. Work to prepare the Environmental Policy Strategy is currently under completion. The National Concept for ecologization of production of agricultural products and genetically modified organisms has been adopted. A section on EP is included in sectoral policies and programmes (e.g. Energy Strategy of the Republic of Moldova until 2020). **Azerbaijan (57.6%)** has not developed any strategy or NAEP since 2003 (they were adopted in 1998-2003). Since 2007, the country adopts various action plans for achievement of environmental objectives that are approved by the President. Priorities are determined by year and successfully met. Performance reports are not published or distributed. In **Belarus (33.3%)**, strategic planning takes place outside cooperation with the EU and is determined by domestic policy. The Ministry of Natural Resources developed the Basic Directions of Environmental Policy of the Republic of Belarus until 2025. The document was endorsed by the Ministry's Board session, but is not approved at the state level (perhaps, it will not be adopted in the near future, but its adoption is scheduled within the Ministry's plans). The document cannot be described as having proper quality; NGOs submitted numerous proposals to improve its text, but they were not considered in the latest version, adopted by the Ministry's Board. The group is closed by

**Georgia (16.7%)**, the number of plans and programmes were developed in some areas in recent years (the 2<sup>nd</sup> National Action Programme on Environmental Protection, the National Strategy and Action Plan for the Protected Areas System, the National Action Plan on Persistent Organic Pollutants, the Comprehensive Strategy for Coastal Zone Management). However, it remains unclear what role they will play in the general national planning system, partially because these plans and programmes have never been formally adopted or endorsed; the same explanation may be applied to insufficient ownership on the part of authorities that are supposed to use plans or programmes as guidance in their work. Insufficient ownership in various state institutions in its turn becomes a reason for insufficient public interest for documents during their preparation process. As a result, a limited, but still existing, possibility of public involvement in decision-making is lost. Frequent changes in government priorities, as well as replacements in top authorities also results in decreasing of the profile authorities' role and losing their political will to influence the state policy in sphere of their competence.

### **Environmental policy integration is generally not backed up with legislation**

The core of the EU neighbouring countries' environmental policies within the EaP framework consists of environmental policy integration into policies of social and economic development at national, regional, oblast and local levels as well as into policies of economic sectors development, in order to ensure more efficient environment protection and sustainable use of natural resources according to international standards. The experts who took part in the assessment not always

regarded **direct legislative enshrinement of the compulsory nature** of such integration, the way it was done in the EU Treaty, as a determinant for creation of conditions for such a reform. The concepts of ‘inclusion’ of the environmental pillar and its ‘integration’ are often confused not only by NGOs but also by most representatives of public authorities. That’s why the data obtained are inconsistent.

**Armenia (57.6%)** does not have in its legislation a clear definition of the compulsory nature of environmental policy integration into sectoral and vertical management systems. Armenia, however, was the only country to approve the National SD Action Plan (analogue of the SD Strategy) after 2008 although NGOs believe that it needs reinforcement from the intersectoral integration perspective. Besides, Armenia was the only one to ratify the SEA Protocol to the UNECE Espoo Convention. The NSDS is working, and the public is involved. In all other countries as well, the requirement on compulsory environmental policy integration is not enshrined by law and the SD Strategies are not adopted (except for Belarus that adopted its SDS in 1997 and updated it in 2004).

**Moldova (49.3% Ukraine (47.2 %))** develop their environmental policies in more compliance with the EU requirements. **Moldova** has by now has developed a draft National Strategy on SD that is under endorsement with Ministries and Departments now. According to **the Ukrainian SEPS** (the part concerning measures to implement the EUAA), the goal of the national environmental policy is to stabilize and improve conditions of the Ukrainian environment by means of environmental policy integration into the policy of Ukraine’s social and economic development for ensuring a safe environment for human life and health, as well as to implement an environmentally balanced nature management system, and preserve natural ecosystems. Goal 4 – Environmental policy integration and improvement of the integrated environment management system – in the Strategy and NAP assumes achievement of the following core objectives: 1) development and implementation of the regulatory legal support for compulsory environmental policy integration into other documents containing political and/or programmatic foundations of national, sectoral, regional and local development through 2012; 2) institutional restructuring and efficiency improvement of public administration in environmental protection; 3) development, within the Environment for Ukraine process framework, partnership among sectors of society in order to involve all stakeholders in planning and implementation of the environment policy; 4) implementation of environment management systems, and preparation of state target programmes for the ecologization of certain national economy branches that provide for technical re-equipment, introduction of energy-efficient and resource-saving technologies, low-waste, waste-free and environmentally safe manufacturing processes; 5) development and implementation by 2015 of a system of incentives for business entities that implement an environment management system and principles of corporate social responsibility, apply environmental auditing and certification of production processes and quality as per international environmental protection standards, and improve environmental characteristics of their products in accordance with international environmental standards. However, neither the SD Concept nor the SD Strategy has been adopted in Ukraine yet, and the public is unaware of SEPS activities.

**Azerbaijan (25.6%)** has not developed any new strategic document on environmental policy since 2003; compulsory requirement for integration of environmental requirements into other policy areas is not fixed by law, but there is certain practice of consideration of environmental requirements. All the development-oriented strategies, plans and programmes, except for intra-government consultations, are sent to the Ministry of Environment and Natural Resources for state environmental due diligence. In **Belarus (25%)**, processes of development of a new-generation environmental policy and SD policy are going on outside the framework of cooperation with the EU. The Belarusian version of the NSDS is named “The National Strategy of Social and Economic Development, which reflects reduction of the environmental component in its contents. However, there is positive experience of the public’s involvement in development of the current version. This gives a ground to expect that the public’s opinion will be taken into consideration in development of a new version as

well (the process of its drafting was suspended in 2009). Public participation directly depends on whether the NSDS development is part of the UNDP project. “Basic Directions of the National Environmental Policy” require further elaboration and formal enshrinement. The public has already submitted some proposals relating to the document’s goals, structure, and contents. Unfortunately, the work on it has been suspended for an uncertain period of time.

**In Georgia (7.4%),** an attempt to mainstream environmental matters into the development strategy was made during the State Strategy for Regional Development for 2010-2017 drafting process. It should be pointed out that the diagnostic report (based on which the strategy was developed) was prepared with broad involvement of various stakeholders, but it was not so for the strategy itself and particularly for the Action Plan that was prepared by the Ministry of Regional Development and Infrastructure. The Action Plan was not available to the public. The plans of the “newborn” Ministry of Economy and Sustainable Development (the ministry was renamed after appointment of a new minister), regarding the development of economy, based on sustainable development principles, are unclear. In 2010, the department for sustainable development was created within the ministry and number of public statements were done to declare beginning of elaboration of sustainable development strategy and implementation of Green Georgia project in 2011. The project “Green Georgia”, according to the minister’s statement, supposed to import electric vehicles to Georgia and to promote alternative energy sources. However, during 2011 there were no progresses in the respective areas.

#### **Attempts to deregulate business operations result in elimination of EIA procedures**

**Armenia (63.6%)** is a party of the Espoo Convention since 1997. In 1995, before acceding the convention, Armenia has adopted the Law on Environmental Impact Analysis. In general it ensured carrying out all the EIA procedures, although the opportunities for public participation in the process were not spelt out sufficiently. The Law also does not regulate in details procedure of the Trans-Border EIA. It became a reason of taking resolution in 2004 about shortcomings in convention implementation in Armenia. Now the legislation is being improved. With the expert support of the international consultant the Draft Law on Amendments to Existing EIA Legislation was elaborated. The new Law takes into account and improves some regulations, including the novels that assure compliance of the state Law with convention requirement. Presently, the Draft Law has passed international expertise, received the approval of the Government and was submitted to the Parliament. Armenia is the only of the six countries that ratified the SEA Protocol. The system of reporting on the IEA implementation is efficient in Armenia.

**Moldova** is the second in strengthening of the EIA structures and procedures (**61.7%**). Foundations for carrying out environmental assessment are laid in the Law of 1996 on Environmental Expertise and Environmental Impact Analysis (with recent amendments adopted in 2003). The existing legislation mainly ensures all the necessary EIA procedures on informing and engagement of the public. In general, these procedures are being performed. The country is also a party of the Espoo Convention and was not recognized as non-compliant with requirements of this IEA. Currently, the new Law on Environmental Impact Analysis compliant with the EU legislation is under development. There is no EIA legislation in **Azerbaijan (59.3%)**. The Guidance on the EIA, which was developed by the UNDP experts in 1996, is in effect. But since this document is not regulatory in nature, the Ministry of Environment and Natural Resources has no sufficient levers invoke this document. The Draft Law on Environmental Expertise which foresees the EIA procedures is developed. But this Law is not submitted to the Parliament of the country as of today. The interested public has no opportunity to participate in the process of making decision in the field of environmental issues at early stages and to do this efficiently. The only source of information available for the environmental NGOs – website of the Ministry – never publishes information on the

EIA procedures and procedures on informing. Also the Aarhus Centres do not distribute this information. The country is a party of the Espoo Convention.

**Belarus (46.1%)** carries out the EIA. Informing and participation of the public are complicated.

**Ukraine (33.3%)**. There is no efficient system of the environment impact analysis of potentially dangerous for environment planned industrial projects (types of activities). The state environmental expertise played the major role in evaluation of potential environmental consequences before. But it was actually abolished with coming into effect of the Law of Ukraine on Regulation of Urban Planning Activities. The existing system of regulating the urban planning activities, including the EIA as a design stage, cannot ensure evaluation and prevention of environmental consequences of harmful economic activity types and have several flaws. Such situation with the state environmental expertise has direct impact on environment in trans-border context, including informing and participation of the public. Two documents introducing some changes into the process of expertise's carrying out are prepared as of now. In particular, these documents propose to introduce the new type of expertise – environmental and expert assessment which will be carried out by the Ministry of Environment and will also introduce in the State Construction Standards certain provisions regulating carrying out of the EIA of projects with trans-border impact. There is an urgent need to settle a problem of the environmental impact analysis in Ukraine. This can be reached by way of introduction of the European EIA model in Ukraine.

**Georgia (13.3%)**. Commitments in the field of deregulation after the “Rose revolution” and the general tendency of the democratic institute's weakening in the country had significant influence on development of the existing EIA system. The existing EIA system has many defects that influence its efficiency. The system does not ensure participation of the public in the environmental decision making procedure; it does not help also people, responsible for decision making, to make informed decisions. The consequent monitoring and control are also weak. The EIA legislation of Georgia does not comply with both requirements of the Aarhus Convention and Directives of the EU.

### **The Aarhus Convention is not provided for mechanisms and procedures of participation of the public**

**All countries** are parties of the Aarhus Convention but neither of them ratified the PRTR Protocol. **Moldova** and **Azerbaijan (60%)** are the leaders among the EaP countries in legislative ensuring of access to information and participation of the public. The legislation of Republic of **Moldova** contains general provisions addressing ensuring participation of the public in the process of making decisions on environmental issues related to laws, regulations, standards, licensing, plans, and programmes (*Guide on Participation of the Public in Decision Making, 2011*). However, the procedures lack detail because of which it is impossible to apply these provisions in practice. The public is usually proposed to participate in the process of making decisions related to policy, plans, and programs related to environment. Technically, the legislation of Republic of Moldova is presented in a favourable light. Improvements have to be introduced in practice, especially at the local level. Seminars, trainings, and studying for civil servants should be organized in accordance with the Aarhus Convention. The Law of **Azerbaijan** on Access to Environmental Information created some requirements to environmental information and to its dissemination. But the government does not fulfil requirements of this Law. Particularly, the Ministry of Environment and Natural Resources does not fulfil the requirement on preparation of the Report on State of Environment as prescribed by the Law once in three years. The procedures of access to information and participation of the public are not developed and not approved. No principles on information are adopted in the country. There no archives and registries of environmental information.

According to the opinion of the experts, **Armenia (56.9%)** executed a lot of works within the framework of the Aarhus Convention implementation. We have to admit that several nongovernmental organizations are very active on the websites of the governmental institutions, including the website of the RA Government, on which easy to access information on planned activities and laws and plans is placed. Many of these NGOs are included into different committees and commissions under the Government and other state authorities. The institute of public hearings is under development in the country. As of now, public hearings were held for several draft laws and also for planned activities, etc. Armenia regularly and timely submits reports to the Secretariat of the Convention in accordance with requirements of the Convention and these reports are placed at the website of the Convention. Such decision was made on the basis of appeal of several nongovernmental organizations concerned with violations of the national legislation requirements in the country to the Secretariat. This reflects commitment and awareness of the public on its rights and on rights provided by the Aarhus Convention but in general this is a proof of high consciousness and non-negligence of country's public.

The system of public access to information is created in **Belarus (34.5%)**. However, it is not easy to obtain information. Active dissemination of information is not practiced. Participation of the public is foreseen only for decisions of the Ministry of Environment and takes place, usually, at the late stage when it is difficult to influence on decisions. The list objects which are significant sources of pollutions and information on which has to be entered into the database have been developed, same as list of indicators, included into the National Pollution Release and Transfer Registry, and their thresholds in accordance with the PRTR Protocol. The country received sanctions for non-compliance with several provisions of the Aarhus Convention twice. The access of the public to justice is most complicated.

**Ukraine (28.2%)**. New regulations have been adopted immediately after ratification of the AC. They were designed to implement the AC provisions into the national legislation. Also amendments have been introduced to some existing regulations. But these amendments were insufficient for proper exercise of rights which are guaranteed by the AC. Other amendments have been introduced during the consequent years but the situation did not improve. The situation with access to environmental information improved at the level of legislation just with adoption of the LU on Access to Public Information and of new version of the LU on Information. The realization of this right in practice stays at low level. At the same time, adoption of the LU on Regulation of Urban Planning Activities abolished the institute of environmental expertise of projects of environmentally dangerous activities and objects in the process of which participation of the public as it is understood by the art. 6 of the AC were realized. Ukraine was recognized as the country not following the Aarhus Convention three times: in 2005, 2008, and 2011. The interdepartmental working group with participation of the CSOs was organized in 2011 for execution of decisions of the Conference of Parties. Presently, IWG prepares amendments to the new Law on Urban Planning Activities.

From the three pillars of Aarhus Convention in **Georgia (24.1%)** the only one, that is relatively represented, is access to information. In particular, the General Administrative Code of Georgia ensures access to public information and defines rules of application of request for obtaining of information. However, often release of information is delayed; personnel, responsible for release of information, are not appointed; responsibility for violation of rules of release of information is not clear; there is no practice of confidential information processing and secret information isolation. Furthermore, the type of information at the disposal of each state institution is not determined.

The public participation in the majority of cases both on policy and project level is diminished. Application in practice of procedures for participation in the decision process procedures is not ensured. According to the existing mechanisms of public participation, consultations with the public on particular activities (which are subject to the EIA) are carried out not by the decision making

authority, but by developer of the project prior to the beginning of the administrative decision making procedures. This means that the public has no opportunities to participate in the decision making processes. The public is also not informed on decisions made. The access to justice is also problematic. There are no clear rules set for separate individuals and nongovernmental organizations on access to judicial authorities for violation of environmental legislation. Furthermore, there are not mechanisms for informing of the public on access to justice. The terms for legal proceedings are often violated.

### **SEIS can play a decisive role in increasing the quality of information for making meaningful decisions**

The major problems of the EaP countries-partners in the field of obtaining information for decision making are fragmentation of data, duplication of functions in the monitoring system, weak material and technical base, absence of the centralized automated system, incompatibility to the European approaches and measurement system, pure cooperation with scientific institutes for transformation of data into information, lack of promptness of the procedures, and insufficient interdepartmental cooperation. The SEIS-IENP Project just started to deploy its activities in the countries-partners. The seminars organized by MEP were held together with the EEA. The co-coordinators are appointed in MEP and in state statistical authorities in all the countries. NAP of **Ukraine (53%)** contains measure on approval of the Action Plan on harmonization of the national system with SEIS in 2012. There is no unified electronic database in **Moldova (41.7%)** and monitoring material and technical base is not financed. **Armenia (33.3%)** has become the first country which submitted the Report on implementation of the IENP-SEIS Project. The primary statistical data is not available in **Belarus (27.7%)**, while at the stage of the National Reports on State of Environment submission the data is often presented in too general form or needs additional interpretation on the side of experts (common people without specific knowledge in the field of environment protection cannot correctly interpret the data on pollution of their residence). Also the data is presented not in the interactive mode and after expiration of a long period of time which does not allow the public to timely respond to changes of situation. In addition, realization of the SEIS Project addressing improvement of situation with access to environmental information takes place with almost no cooperation with representatives of the interested public. It is very difficult to find information on the Project that radically contradicts objectives and tasks of this Project.

**Georgia (26.6%)** has improved the practice of the SEA Report preparation. The structure of report and quality of analysis in the SEA Report for 2007-2009 were improved; the report was prepared under consultations with the public that was not the case for the previous version (report for 2001-2005). The last report also point out informational gaps that allows the reader to evaluate its completeness and reliability of information, which is presented in the SEA Report. Undoubtedly, such progress would be impossible without methodological assistance provided by a project which was financed by the EU.

The NGOs were not engaged into discussions of priorities of the SEIS-IENP Project in **Azerbaijan (25.4%)**.

## RECOMMENDATIONS

- 1) Eastern Partnership (EaP) should alter the technical status of environmental issues and elevate them to the level of high dialogue, due to disastrous environmental situation in the majority of EaP countries, and the need to raise the relative priority of environmental objectives and stimulate political will of governmental at the level of Prime Ministers and Presidents, in addition to the level of Ministry of Environment in order to improve the situation.
- 2) Providing public access to environmentally important information stays the most important task for the development of environmental democracy in the EaP partner-countries. It is necessary to elaborate with public participation and to approve by the Governments the detailed procedures, supported by necessary institutional and financial resources and by mechanisms of compliance. Just informed public becomes efficient partner for authority for improvement the quality of adopted decision and increasing the effectiveness of environmental governance.
- 3) It is necessary to involve the public into discussions on the environmental component of Association Agreement (AA) and Association Agenda priorities, to maintain three-party dialogues between EU Delegations in countries, Governments and civil society organizations (CSOs) on environmental and sustainable development components of their bilateral cooperation. National EaP platforms may serve as operational space to organise such discussions.
- 4) Essentially, the reforms necessary for transition to efficient environmental policy entail its mandatory integration into sectoral, regional and local development policies. In the course of AA development it will be necessary to ensure that mandatory integration of environmental policy will be incorporated into the range of legislative reforms, in addition to necessary changes for adaptation of 5 EU horizontal environmental policy directives.
- .5) Logics of AA in use of sectoral budget support and other finance and technical assistance tools stipulates its enhancement depending on countries' progress in implementation of reforms. To make this mechanism working, we urge to use the case of Ukraine as a model to be followed by other EaP countries, which should develop modern Environmental Policy Strategies incorporating measurable targets and objectives, clear implementation schedules, mechanisms of monitoring and efficiency assessment, as well as indicators. It is particularly important to ensure that the Strategies and their National Action Plans (NAPs) with clearly defined activities, relevant funding and funding sources should be developed in an open manner with maximal possible involvement of all stakeholders and CSOs.
- 6) All the country still have common and very critical problem, that is the low level of implementation of legislation, programmes, plans, international agreements in the area of environment and sustainable development. Quite often the legislation is corresponding, but it is not implemented and maintained in a proper way. That's why within the framework of the EaP it is necessary to pay close attention to the applying of the existing environmental legislation, plans, programs, international legislation and to the mechanisms of maintenance of their demands.
- 7) Now, some EaP partner countries are attempting to implement administrative reforms that are poorly designed, were not discussed with the public, and are of sporadic and speculative nature. We state, that deregulation - of whatever importance it might be - is a complex process that in all events cannot be pursued at the cost of higher risks to public health and the environment. However, now we see that deregulation is used as a pretext to curtail EIA procedures and public participation in decision-making on construction of potentially environmentally hazardous facilities. Particular efforts are

needed to channel the deregulation process into a path compliant with the EU law and principles of democratic participation.

8) It is clear that adaptation of the relevant EU directive and/or transposition of its key principles is the most preferred option for development of efficient EIA procedures in 6 countries.

9) Actually, procedures of access to information, public participation and access to justice on environmental matters may be adequately developed only with support of EU projects. However, it is necessary to account for the fact that they must be approved at the level of the Government, not only at the Ministry of Environment level, and the latter obstacle may be removed only through a high level dialogue between the EU and a partner country.

10) Implementation of ENPI-SEIS project is of major potential value for improvement of environmental information management in partner countries and we welcome the initiative. However, it is necessary to better inform NGOs and involve them into these activities. In addition, we believe that it is necessary to organise seminars for all countries with involvement of NGOs, to shape better understanding of differences between statistical data and information for decision-making, to get an insight into the best ways to organise collection, categorisation, processing, analysis and provision of information for purposes of efficient decision-making for environmental protection.



# AZERBAIJAN

## Objective 1: Strengthening cooperation with the European Union

Question	Yes			No	Notes
	Excellent	Adequate	Poor		
Grade	3	2	1	0	
<i>Policy</i>					
(1) Have negotiations on conclusion of the Association Agreement (AA) started or not? If “yes”, specify the date of the beginning of negotiations in Notes.	3				Negotiations on conclusion of the Agreement of Association (AA) between the EU and Azerbaijan started in 2010. According to communications of official persons (Mr. John Kuaer, Head of the EU Delegation in negotiations and Mr. M. Mammadkuliev, Deputy-Minister of Foreign Affairs of Azerbaijan), hold negotiations in four sections: - policy, - economy, - human rights, and - trade. Negotiations are at the final stage.
If “not”, what agreement regulates cooperation of the country with the EU at the present time? (additional question, should not be graded)	-	-	-		Presently, cooperation between the EU and Azerbaijan is regulated by Agreement on Partnership and Cooperation.
(2) Has the strategic political instrument for implementation of a decision on holding negotiations on the AA been adopted? If “yes”, then does it have a legal act status? For example, Agenda of Association (AofA), other (specify in Notes).			1		The decision on adoption of strategic political document is not officially released to public. But sources in the MFA told us that there is the Resolution of the President of Azerbaijan on the beginning of negotiations. This Resolution is not published and has no legal status.
<i>Institutional Aspects</i>					
(3) Does the Ministry of Foreign Affairs have a special unit/department on cooperation with/integration into the EU <sup>1</sup> ?	3				There is the Division on Integration with the EU in the MFA.
(4) Have government officials undergone training on cooperation/integration with the EU?		2			Employees of this Division are sufficiently prepared on the issues of the EU and have relevant skills of work with

<sup>1</sup>Evaluation is based on the subjective expert judgment of the efficiency level of authorities of this unit.

					the EU structures.
(5) Does the government provide the public with information on cooperation policy and on activities with the EU?			1		The Government does not provide information on progress in negotiations officially. Information is disseminated by officials and, as they say, information on international negotiations is confidential.
(6) Does the government monitor regularly and officially implementation of the AofA/ another Action Plan?			1		The Government monitors implementation of the ENP AP. But the Government does not disseminate information on the monitoring results. The information on the ENP AP implementation is disseminated by certain ministries, including the Ministry of Environment and Natural Resources.
<b><i>Cooperation in the field of environment</i></b>					
(7) If a policy instrument has been adopted for the AA preparation (like AofA)/Action Plan implementation, does it describe any specific actions and deadlines for achieving environmental objectives?			1		The Political Instrument on the AA preparation is not adopted (just Resolution of the President of Azerbaijan). The Political Instrument on the AP implementation is also not adopted. Therefore, there is no any document containing particular actions and time frames for fulfilment of objectives in the field of environment protection.
(8) Do legislative programming instruments provide for the adoption of the legislation necessary for the implementation of the environmental objectives of the AA/Action Plan?		2			The Action Plan on Harmonization of Legislation of Azerbaijan to the EU Legislation for 2010-2012 adopted by the State Commission for European Integration on October 23, 2009. The Plan covers 15 industries.
(9) Are annual priorities/action plans on the AofA implementation being approved in the form of regulatory act?				0	No.
(10) Were the consultations with the NGOs held on contents of the AofA environmental chapter?				0	No.
<b><i>Country-specific questions</i></b>					
<b>Overall assessment:</b> Score from 0 to ... (3x)	6	4	4		<b>14 (of 30 available)</b>

number of questions)					
Per cent					<b>46.7%</b>

***Recommendations:***

1. Develop procedures (mechanism), improve the practice of informing the public by governments and the EU Delegation on all the aspects of cooperation between the EU and countries;
2. Develop procedures of strategic document implementation;
3. Develop annual priorities/action plans on the AofA implementation;
4. The Government to disseminate the monitoring results annually;
5. Hold consultations with the NGOs on content of the AofA environmental chapter.

## Objective 2: Strengthening of administrative structures and procedures

Question	Yes			No	Notes
	Excellent	Adequate	Poor		
Grade	3	2	1	0	
<b>Administrative structures</b>					
<i>At the national level</i>					
(1) Is the Ministry of Environment Protection (EP) established in the country? If yes, do its powers cover all the major environmental issues in the country (e. g. water, wastes, air, biodiversity, etc.)? (Specify the precise name of the Ministry in Notes)	3				The Ministry of Environment and Natural Resources was established in 2001. Its competence includes management of underground waters, geological resources, forests, biodiversity, meteorological service, fishery inspection and others.
(2) Are other bodies responsible for the EP issues established? (list in the Notes)				0	Certain state authorities and organizations perform some environmental functions. The Ministry of Energy (Agency on Alternative and Renewable Energy) deals with issues of energy efficiency, the Ministry of Emergencies (Supervision of Safe Ways of Construction and Agency of Urban Planning) is responsible for environmental urban planning, the Ministry of Health (Department for Sanitary Supervision) is responsible for drinking water monitoring, "Azersu" LLC manages the water supply and sewerage systems, and others.
(3) Are they subordinate bodies of the Ministry? (Summarize the subordination level in the Notes)				0	There are no separate authorities responsible for environmental issues, except for the Ministry of Environment and Natural Resources.
(4) Do they duplicate functions of the Ministry?				0	There are no separate authorities responsible for environmental issues, except for the Ministry of Environment and Natural Resources.
(5) Has the State EP Fund been created in the country?	3				Yes, there is the State EP Fund in the country.
(6) Have its financial resources been increased during the last five years? (specify dynamics of funds for 2007-2009 in the Notes)	3				Yes. 2007 – AZN 656,503.35 2008 – AZN 965,231.56 2009 – AZN 1,649,127.08 2010 – AZN 2,402,768.27

					1 AZN ~ EUR 1.05-1.2
(7) If increased, then was such increase related to indexation of rates of the environmental charges? (in what year did it take place?)	3				Partially, this was related to adoption of the Law of October 20, 2009 which toughen up the administrative fines by 1.5-2 times. But not only this.
(8) If yes, was it related to improvement of control of the enterprises' activities?	3				The control over activities of enterprises and of payment of fines and environmental proceedings has notably improved in 5 years.
(9) Is consolidation and prioritization of the SEPF (State Environmental Protection Fund) targeted financing to solve the acute environmental problems observed?			1		This is a very serious problem for Azerbaijan. The SEPF is an extra-budgetary fund and its expenditures are controlled by the Ministry of Finance. There is no clear mechanism of disbursement on environmental projects. The mechanism of Fund management is not clear.
(10) Is the State Environmental Inspection established in the country?	3				The Department for Environment Protection performs the functions of the State Environmental Inspection.
(11) Is it an independent authority within the EP system?	3				The Department for Environment Protection is not independent and is subordinate to the Ministry of Environment and Natural Resources.
<i>At the regional/local level</i>					
(12) Does the structure of the Ministry include its territorial branches? (if yes, specify the administrative coverage in the Notes, for example oblast level branches)	3				The Department for Environment Protection has territorial departments in regions. The Department for Conservation and Regeneration of Forests which is also within the structure of the Ministry of Environment and Natural Resources has district (territorial) entities.
(13) Does the State Environmental Inspection have its territorial offices? (if yes, specify the administrative coverage in the Notes, for example district-oblast-region level branches)	3				They operate at the territories of economic regions and is inter-district (in sense of administrative division) in nature.
(14) Do regional/local authorities have authority in the field of environment protection? Is there clear division of competence		2			Local authorities have environment protection powers but they are not clearly written down in the Regulations. Local authorities

between the national and regional/local authorities?					do not have structures on realization of these powers or existing structures realize them in inefficient way. Azerbaijan has no separate regional administration structures. Local administration is executed just at the town and district levels. There are regional structures of certain ministries and state committees and they will execute functions of the correspondent central authorities. Mainly regional structures of the Department of the EP execute the control functions.
(15) Is the SEPF distributed to the oblast/local level? (if yes, specify then levels, shares of the national-oblast-local level, and also spending units)				0	No.
<b><i>Strategic planning</i></b>					
(16) Is there an environment protection strategy in place or planned to be adopted? If yes, then is it of a good quality?			1		There is not environment protection strategy in the country. Time of performance and tasks of the previous strategy has expired. The last strategic document – the National Sustainable Socio-Economic Development Plan – covered the period by 2008. The National Plan for Environment Protection is also outdated. Presidential Decree on November 29, 2011 “On preparing Conception of Development “Azerbaijan 2020, glance at future” envisaged by the end of 2012 to prepare and present the project of the Conception of Development to the President of Azerbaijan Republic for adoption; while preparing the Conception to assure public participation and to assume the measures for bringing the Draft up for discussion.

(17) Are the tasks of institutional strengthening of the EP management system included into the strategy?	3				Tasks on institutional strengthening of the system of management of environment protection have been included into old strategies. In general, these functions were performed.
(18) Have steps been taken to implement the strategy?		2			The strategies were partially implemented.
(19) Is the strategy being revised regularly (e. g. once in 5 years?)			1		The strategy is not under revision but the Action Plans on fulfilment of particular environmental tasks are being revised for the last 4 years.
(20) Are there sector-specific strategies to support the overall strategy?	3				Such kinds of strategies were developed in 2003-2005. They were directed at implementation of the general strategy.
(22) Are there procedures, such as consultations between the ministries/authorities in place?	3				There are no official procedures within the framework of governmental consultations but the well-functioning practice of such consultation does not exist.
(23) If yes, is the role of the Ministry of Environment and other environmental authorities to coordinate within these procedures?	3				All the internal consultations of the government on the EP issues are being coordinated by the Ministry of Environment and Natural Resources but is managed by the Cabinet of Ministers.
(24) Are there formal procedures to facilitate coordination between the authorities and other relevant actors (civil society, scientific community)?		2			There are no official procedures to ease coordination between the authorities and other important interested parties (civil society, scientists, and others). But there exists the well-functioning practice of such consultations towards which <u>the civil society is very critical</u> .
(25) Has cooperation between different stakeholders improved from the moment of the beginning of negotiations on the AA?				0	No, it did not improve.
<b>Country-specific questions</b>					
<b>Overall assessment:</b> Score from 0 to ... (3x number of questions)	39	6	3		<b>48 (of 72 available)</b>

Per cent					66.7%
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***Recommendations:***

1. Develop and adopt the Strategy of Environment Protection (NEAP).
2. Revise the strategy regularly.
3. Develop and adopt the coordination procedures between the authorities and other important stakeholders.



### Objective 3: Development of strategies, plans, and programmes in the environment protection field

Question	Yes			No	Notes
	Excellent	Adequate	Poor		
Grade	3	2	1	0	
<i>Preparation and adoption</i>					
(1) Have relevant strategies, plans, and programmes been prepared from the moment of the Action Plan adoption?		2			From the moment of the Action Plan adoption, the correspondent environmental strategies, plans, and programmes have been neither developed nor adopted. But starting from 2007, different Action Plans on fulfilment of particular environmental tasks were adopted. Their execution is successful. NEPAP and other strategies were prepared and adopted in 1998-2003. But Action Plans to resolve different environmental problems with sufficient financing. Their execution is successful.
(2) Have these strategies, plans or programmes been officially adopted at the level of Parliament/Government?		2			Action Plans on environmental issues are adopted by the President of the country.
<i>Process</i>					
(3) Did the ministries play the active role in preparation of strategies, plans or programmes in different sectors, e. g. transport, industry, energy, healthcare? Does the Ministry of Environment play the leading role in their development?			1		As a rule, the Action Plans on environmental issues are mainly related to ministries of different areas, including transport, industry, energy, health, etc. And also local authorities and municipalities. The Ministry of Environment and Natural Resources plays the leading roles but does not have powers to coordinate execution of the mentioned Plans.
(4) Did the local and regional authorities play the active role in preparation of strategies, plans, and programmes?		2			Local authorities participate in internal consultations of the Government, if the Action Plan foresees realization of any activity on their territory. In other cases they do not do this.
(5) Did civil society play an active role in different sectors (environmental NGOs, business & industry, others)?		2			Yes, activities of civil society are very visible in the field of control of oil extraction and in distribution of incomes obtain from sales of oil.
<i>Content</i>					
(6) Do newly prepared strategies/plans contain elements of approximation to		2			No, they are directed on resolving of particular environmental tasks. They are

the EU environmental policy?					compliant with the EU standards in their results.
(7) Do plans and programmes clearly define division of responsibility for their implementation?	3				Yes, the bodies responsible for execution of each of the actions and terms of execution are clearly defined in the Plans.
(8) Do the plans and programmes contain clear and realistic financial plan, which define resources, requirements, and ways of implementation?			1		Plans and programmes have no clear and feasible financial plan. The state budget structure in the country is build following old Soviet procedures and do not comply with the international budget standards. The country plans to change the structure of the budget. Then it will build the structure basing on the programmes, same as in other countries. But this process lasts too long.
(9) Do the strategies, plans, and programs define priorities in actions?			1		No, the actions have no priorities in the Plans. They are defined for particular years. This can be considered as some kind of prioritization of actions.
(10) Do the strategies, plans, and programmes foresee monitoring, evaluation and reporting mechanisms?			1		The plans do not contain the monitoring and evaluation methods. But competent state authorities report annually to the Cabinet of Ministers on fulfilment of set by the Plan tasks. These reports are not published and are not disseminated.
<b>Implementation</b>					
(11) Have any steps been taken to implement the strategies, plans and programmes?		2			Yes, the Action Plans on environmental issues are being executed successfully.
<b>Country-specific questions</b>					
<b>Overall assessment:</b> Score from 0 to ... (3x number of questions)	3	12	4		<b>19 (of 33 available)</b>
Per cent					<b>57.6%</b>

**Recommendations:**

1. Develop strategies, plans, and programs and define action priorities in them.
2. Provide for monitoring and evaluation mechanisms in strategies, plans, and programmes.
3. Provide for actions on implementation of strategies, plans, and programmes in them.



**Objective 4: Ensuring integration of environmental aspects into other policy sectors (promoting sustainable development)**

Question	Yes			No	Notes
	Excellent	Adequate	Poor		
Grade	3	2	1	0	
<b><i>Integration of environment into sectoral policies</i></b>					
(1) Is environmental requirements' (policy's) integration into other policy spheres set legally as compulsory?			1		Compulsory nature of integration of environmental policy into other spheres of policy is not set forth legislatively. But there exist some practice of environmental requirements' accounting, since all strategies, plans, and programmes address the issues of development, except for consultations within the ministries, are submitted to the Ministry of Environment and Natural Resources for the State Environmental Expertise.
(2) If not, then is such a decision at the preparatory stage now?				0	No, such decisions are not under preparation.
(3) Strategies, plans, and programmes: has a common policy been adopted?				0	No, the policy was not adopted.
<b><i>Preparation of the National Strategy</i></b>					
(4) Has the national sustainable development strategy been adopted since the signing of the Action Plan?	3				The National Sustainable Development Strategy was adopted in 2002 and was implemented by 2008. Starting from 2008 the State Programme for Poverty Alleviation and Sustainable Development for 2008-2015, the State Programme of Socio-Economic Development of Regions of Republic of Azerbaijan for 2009-2013, and the State Programme of Socio-Economic Development of Baku and Its Settlements for 2011-2013, regions were developed.
If no, then is such a strategy at the preparatory stage now?					
(5) Was the national environmental policy strategy adopted from the moment of the Action Plan signature?			1		The National Environmental Policy Strategy was not adopted from the moment of the Action Plan signature. But special attention is paid to environmental issues in adopted strategies.
(6) If not, then is such a strategy at the preparatory stage now?				0	There is no such Strategy and no initiatives on its development.
<b><i>Interdepartmental governance bodies</i></b>					

(7) Has the National Sustainable Development Council (NSDC) been created in the country?				0	No, the NSDC is not created.
(8) Are the representatives of nine major society groups represented in it?				0	No, since the NSDC is not created.
(9) Are the representatives of environmental NGOs represented in it?				0	No, since the NSDC is not created.
(10) Are the activities of the NSDC transparent and are they properly communicated?				0	The NSDC is not created.
(11) Does the NSDC consider issues related to integration of environmental policy?				0	The NSDC is not created.
(12) Were the general committees created or other measures taken towards integration of environment into the sectoral policy?				0	The NSDC is not created.
<b><i>Some instruments of the environmental policy integration</i></b>					
(13) Has legislation on the obligatory carrying out of the EIA (SEA) in relation to policies, strategies, plans, and programmes been adopted?				0	No, the legislation is not adopted.
(14) If yes, then are there positive practices of the EIA (SEA) carrying out?		2			The EIA is performed for all the international institution projects and petroleum projects. The country has some positive practice in the field.
(15) If not, then is such legislation at the preparatory stage now?	3				A new Law on environmental expertise foreseeing among others also the EIA procedures is developed.
(16) Is the law on environmental audit adopted?				0	No, the Law on environmental audit is not adopted.
(17) If not, then is such a law at the preparatory stage now?				0	No, the Law on environmental audit is not under development.
(18) Have new economic instruments been established to stimulate more efficient environmental management on enterprises since signing of the Action Plan? If yes, provide an example				0	No, new instruments have not been established.

in the Notes.					
<b>Process</b>					
(19) Did ministries in different sectors play an active role in preparation of the SD strategy?	3				Yes, the Ministry of Environment and Natural Resources participated in both development of the State Programme of Sustainable Socio-Economic Development and in development of other programmes on sustainable development.
(20) Did representatives of civil society play an active role in different sectors (environmental NGOs, manufacturing industry, others)?			1		Representatives of civil society were not involved into the process of development of strategies, plans, and programmes. The consultations were not held, except for consultations with scientific institutions.
(21) Have the text proposals of the public been taken into account in the final document?				0	Public hearings were not held. Draft Strategies were not provided to general public to take its opinion to account.
(22) Did Ministries play an active role in preparation of the environmental policy strategy in different sectors?				0	The environmental policy strategy had not been developed. Therefore, there is no sense to talk about involvement of other ministries.
(23) Did representatives of civil society in different sectors (environmental NGOs, industry, others) play an active role?				0	The environmental policy strategy had not been developed.
(24) Have the text proposals of the public been taken into account in the final document?				0	The environmental policy strategy had not been developed.
<b>Implementation</b>					
(25) If the SD strategy was adopted, then have steps been taken to implement its actions?	3				Yes, in general the steps were taken in all the major directions foreseen in different documents on the SD.
(26) If the environmental policy strategy was adopted, then have the steps been taken to implement its actions?	3				The strategy is not adopted but significant steps on improvement of situation with the environment protection were taken.
<b>Country-specific questions</b>					
<b>Overall assessment:</b> Score from 0 to ... (3x number of questions)	15	2	3		<b>20 (of 78 available)</b>
Per cent					<b>25.6%</b>

**Recommendations:**

1. Develop and adopt the National Environmental Policy Strategy.

2. Develop and adopt the Law on Environmental Audit.
3. Adopt the Law on State Environmental Expertise in which the compulsory EIA (SEA) of policies, strategies, programs, and plans should be envisaged.
4. Establish the National Council on Sustainable Development in the country and include representatives of the public in its body.

## Objective 5: Reinforcing of structures and procedures to carry out environmental impact assessment (EIA)

Question	Yes			No	Notes
	Excellent	Adequate	Poor		
Grade	3	2	1	0	
<i>General aspects</i>					
(1) Does the existing legislation require EIA for activities likely to have significant impact on natural resources and the environment? If not, is the adoption of such legislation planned?			1		There is no EIA legislation. The guide on the EIA developed by the UNDP experts in 1996 is in effect. But the Ministry of Environment and Natural Resources has no adequate levers to use this tool because it has no status of a legal document. The Draft Law "On Environmental Expertise" foreseeing the EIA procedures is developed. But this Draft Law is not submitted to the Parliament of the country up to date.
<i>Structures</i>					
(2) Are responsibilities clearly defined and distributed between the national and regional/local governments?		2			Just the Department of the State Environmental Expertise not having regional or local offices performs the EIA.
(3) Is the capacity of the regulatory authorities sufficient? <sup>2</sup>		2			Weak legislative framework is insufficient to provide the SEE with opportunities to regulate the impact on environment, even though employees of the SEE have good knowledge and skills in the EIA. Such experience was accumulated on cases of the EIA for petroleum projects.
<i>Procedures</i>					
(4) Are criteria and procedure for defining which activities are subject to EIA clearly established?			1		There are no such criteria and procedures, but the SEE has good practice.
(5) Does the procedure in place provide for a preliminary screening	3				The existing EIA practice provides for the preliminary screening stage.

<sup>2</sup>This question is rather subjective benchmark, although it is important as without sufficient capacity, legal requirements can hardly be implemented and enforced. It relates mainly to the number and the degree of qualifications of people in charge of reviewing EIA at the national and regional level



stage to decide if an EIA is required for the proposed project?					
(6) Does the procedure in place provide for a scoping stage to identify the potential significant impact and main alternatives to assess?	3				The existing EIA practice provides for the preliminary scoping stage.
(7) Is the information to be provided by the developer in the EIA clearly established e.g. through setting the minimum content of the EIA?	3				Yes.
(8) Are consultation procedures with authorities likely to be concerned by the project in place and well applied?	3				Yes.
(9) Does the legislation clearly require the relevant country authorities and stakeholders to be informed in the case of probable trans-boundary impacts?	3				No, the legislation does not require this but the Guide on the EIA requires.
(10) Does the legislation clearly require consultations with the relevant country authorities and stakeholders in case of probable trans-boundary impacts?	3				There is no legislation on the EIA but existing in the country practice of the EIA requires holding consultations with general public.
(11) Are clear procedures in place to ensure effective information for the public early stages on in the process?	3				There are no any formal procedures. The EIA practice is applied in two ways: in case the EIA is performed by foreign companies, then consultations with general public are being broadly held; when the EIA is performed by the local companies, then consultations are held for the sake of appearance. There is no sense to talk about consultations at the early stages.
(12) Is the public concerned given early and			1		The interested general public has no opportunity to

effective opportunities to participate in decision-making environmental procedures?					participate in the process of making decisions on environmental issues at the early stages and to do this efficiently. The only source of information available to environmental NGOs – the website of the Ministry – never publishes information on the EIA procedures and on procedure of information provision. The Aarhus Centres also do not disseminate such information.
(13) Are the results of the consultations with the public and relevant environmental authorities taken into account in the decision-making process?			1		The information on this is not disseminated. The procedures to account opinions of the general public and other interested parties are not established.
(14) Is the competent authority required to inform the public of the decision to grant or refuse to provide consent on implementation of the project?			1		Decisions of the Department of the State Environmental Expertise are not published and the information on decisions is not disseminated.
(15) Is the competent authority required to inform countries consulted in case of trans-boundary impact of the decision to grant or refuse development to the developer?			1		There are no such conditions in the legislation. In practice such information is not disseminated.
(16) Are the exceptions to information rights, e. g. related, for example, to commercial confidentiality clearly set out?			1		There no clear provisions in the Law “On Access to Environmental Information” which determine the limits of commercial confidentiality and other exceptions.
(17) Can the state authority which takes a decision on consent on implementation of the project to impose additional requirements in relation to positive decision?	3				The SEE can impose additional requirements to the positive decision when makes decision on a particular project. This procedure is set forth in the Guide on the EIA and is applied in practice, even though it is not set forth by the legislation.
(18) Is a public right of appeal against the decision			1		There are no procedures and practices to appeal decisions

clearly set up and in place?					by general public.
(19) Does the EIA procedure include a follow-up requirement concerning the post-project analysis? If yes, is it well applied?		2			The EIA procedures (both described in the Guide on the EIA and those in practice) do not foresee any analysis after implementation of a project. However, monitoring of the projects which is being performed by the Department of Environment Protection (Inspection) can be considered as such kind of analysis.
<b><i>Implementation of the Espoo Convention</i></b>					
(20) Did the country ratify this multilateral environmental agreement?	3				Yes, Azerbaijan is a party of the Convention.
(21) Was the legislation adopted or changed in order to implement requirements of the international agreement?			1		No. Decision on changes in legislation after ratification of the agreement is not made. Consequently, the legislation was not changed.
(22) If yes, then does this reflect obligations foreseen by the agreement properly?					
(23) Were the other measures taken in order to implement the international agreement?				0	Particular institutional and legislative steps on implementation of the Convention were not taken.
(24) Does the system of reporting on results of implementation of the international agreement exist in the country?			1		The system of reporting on implementation of conventions does not exist in the country but the country reports to the Secretariat following the established by it procedures.
(25) If yes, then did the country already report on results of the agreement implementation?		2			Azerbaijan reported to the Secretariat on established procedures 3 times – in 2003, 2005, and 2009.
(26) Was the country recognized as the country not following the international agreement?	3				No
<b><i>Implementation of the Protocol on Strategic Environmental Assessment (SEA)</i></b>					
(27) Did the country ratify this multilateral environmental agreement?				0	No

Was the legislation adopted or changed in order to implement requirements of the international agreement?				0	No
If yes, then does this reflect obligations foreseen by the agreement properly?				0	
Were the other measures taken in order to implement the international agreement?				0	No
Does the system of reporting on results of implementation of the international agreement exist in the country?				0	No
If yes, then did the country already report on results of the agreement implementation?				0	No
Was the country recognized as the country not following the international agreement?				0	No
<i>Country-specific questions</i>					
<b>Overall assessment:</b> Score from 0 to ... (3x number of questions)	<i>30</i>	<i>8</i>	<i>10</i>		<b><i>48 (of 81 available)</i></b>
Per cent					<b><i>59.3%</i></b>

***Recommendations:***

1. Develop and adopt the necessary amendments to the national legislation to ensure implementation of provisions of the Espoo Convention.
2. Finalize the process of ratification of the SEA Protocol by the country, prepare and adopt the necessary amendments to the national legislation to ensure its implementation.
3. Develop the unified system of reporting on international agreements' implementation.
4. Develop and adopt the procedures of public participation in making decisions on environmental issues foreseeing procedures for participation in international forums and in trans-border projects.

## Objective 6: Improving access to information and public participation

Question	yes			No	Notes
	Excellent	Adequate	Poor		
Grade	3	2	1	0	
<b>Implementation of Aarhus Convention</b>					
(1) Has the country ratified this multilateral environmental agreement?	3				Yes, Azerbaijan ratified the Convention in 2000.
(2) Was the legislation adopted or changed in order to implement requirements of the international agreement?		2			Azerbaijan adopted the Law “On Access to Environmental Information” and several Decisions of the Cabinet of Ministers which create the mechanism of this Law application.
(3) If yes, then does this properly reflect obligations foreseen by the agreement?		2			Not completely. Because the important tool for implementation of convention – procedures of participation of the general public – is not adopted.
(4) Were the other measures taken in order to implement the international agreement?	3				The Aarhus Centres are created within the Ministry and in 2 country regions.
(5) Does the reporting system on results of implementation of the international agreement exist in the country?				0	No, there is no such system.
(6) If yes, then did the country already report on results of the convention’s implementation?	3				The country reported to the Secretariat of the Convention twice.
(7) Was the country recognized as the country not following the international agreement?	3				No
<b>Implementation of the PRTR Protocol</b>					
(8) Has the country ratified this multilateral environmental agreement?				0	No
Was the legislation adopted or changed in order to implement requirements of the international agreement?				0	No
If yes, then does this properly reflect obligations foreseen by the agreement?				0	No
Were the other measures taken in order to implement the international agreement?				0	No
Does the reporting system on				0	No

results of implementation of the international agreement exist in the country?					
If yes, then did the country already report on results of the agreement implementation?				0	No
Was the country recognized as the country not following the international agreement?				0	No
<b><i>Access to environmental information</i></b>					
(9) Are there satisfactory administrative systems in place for prompt responses to requests for information from the general public?	3				Yes. The Ministry of Environment and Natural Resources established division on public relations, one of responsibilities of which is raising awareness of the general public and response to requests.
(10) Are there satisfactory guidelines available on information held by the state authorities and how to request access to such information?			1		The principles on information are not developed and not adopted in the country. There are no archives and no registries of environmental information; therefore, there are also no procedures of obtaining information from them.
(11) Are there well-established channels of the environmental information publication in the country (for example, laws, case-law, decisions of executive authorities and etc.)?		2			The Law “On Access to Environmental Information” set some requirements to environmental information and to its dissemination but the Government does not fulfil requirements of this Law. Particularly, the Ministry of Environment and Natural Resources does not commit to obligation on preparation of the Report on situation with environment as required by the law once in 3 years.
(12) Is access to information free of charge <sup>3</sup> or inexpensive <sup>4</sup> ?	3				Yes, access to environmental information is free of charge.
(13) Is there a secure data management system to handle commercially sensitive information and personal data in the country?				0	Such system does not exist.

<sup>3</sup>If yes, then the answer has to be “yes” – “excellent”.

<sup>4</sup>If yes, then the answer has to be “yes” – “good” or “yes” – “satisfactory” depending whether the access still remains simple despite payment or if there exist barriers to access.

(14) Are there clear guidelines for authorities on how to apply commercial confidentiality requirements, including on information disclosure due to public interest?			1		There are no such principles but there is a good practice.
<b><i>Participation of the public</i></b>					
(15) Are there procedures for enabling public participation in decision making in place, e. g. have clear procedures been established for submitting of written comments or comments at hearings and for the notification of decisions?		2			No, such procedures do not exist. There exists a formed practice of participation of the general public in the EIA process. Participation of the general public in other issues depends on will of authorized persons, while there are no any procedures or rules for it.
(16) If yes, then are citizens well informed of these procedures?			1		No, they obtain information from NGOs.
(17) Have tools been developed to identify the participating public? In particular, if there is an Environmental Impact Assessment procedure in place, does it also involve public participation?			1		A rather good bad practice of participation of the general public in the EIA process exists. This practice foresees participation of the general public but because of absence of clear regulated procedures the interested general public not always has access to the EIA process. But when it obtains such access, this access is not always timely.
(18) Are the outcomes of public participation procedures taken into account in an appropriate manner? Does public input have a tangible influence on the actual content of the decisions?			1		No, there are no procedures for accounting of the general public's opinions.
(19) Have incentives been developed to allow applicants to engage in early dialogue with public?			1		There are no such stimuli.
<b><i>Access to Justice</i></b>					
(20) Does the country provide for independent and impartial review bodies, including courts?			1		There are courts but they depend on executive authorities and they never make decision against the will of the Government and ministries.
(21) Have clear rules been developed in relation to the right of individuals and the NGOs to access judicial and	3				Yes, the Law on administrative proceedings foresees participation of NGOs in the process as an interested party

other reviews for violations of the Convention and for violations of national environmental legislation?					of judicial proceedings and allows them filing claims to public ends.
(22) Is the mechanism to suspend execution of a decision, which is dangerous for environment developed (e. g. preliminary injunction for the period of decision appeal)?	3				There are such mechanisms in the legislation.
(23) Have the mechanisms been established to provide the public with information on access to justice procedures?					Detailed information on the ways how and where to apply to file an appeal, how to write a petition, and which documents should be attached to the petition is placed on the websites of courts – district and appeal courts and the Supreme Court.
(24) Have assistance mechanisms been developed for the public in accessing to the procedures, for example, financial support to pay for lawyer's services if necessary?	3				Legislation foresees the mechanisms to engage a lawyer at the expense of the local budgets.
(25) Is there a time limit set by national legislation between the beginning of an appeal and a legal decision? If not, is the average of such a procedure acceptable?	3				The legislation sets forth the timeframe between the beginning of legal proceedings and judgment. Duration of the legal proceedings is acceptable.
<b>Country –specific questions</b>					
<b>Overall assessment:</b> Score of 0 to ... (3x number of questions)	30	8	7		<b>45 (of 75 available)</b>
Per cent					<b>60.0%</b>

**Recommendations:**

1. Develop and adopt correspondent legislation, foreseeing Aarhus Convention implementation.
2. Finalize the process of the PRTR Protocol ratification and bring the national legislation into compliance with provisions of the Protocol.
3. Develop and adopt the procedures for public participation.
4. Improve the Law on Access to Environmental Information.



## Objective 7: Cooperation on development of the Shared Environmental Information System (SEIS)

Question	Yes			No	Notes
	Excellent	Adequate	Poor		
Grade	3	2	1	0	
<b>Implementation of the SEIS Project</b>					
(1) Did experts of SEIS project make country visit to identify priorities and plan of activities?	3				Yes.
If not, is it planned to organise such a visit in the nearest future?					
(2) If yes, then were representatives of the public invited to such a meeting?			1		Even if this really took place, then the Ministry has invited its puppet NGOs
(3) Is a person responsible for implementation of the project in the country appointed in the Ministry/another authority?		2			Yes.
(4) Does the public know the appointed responsible person?			1		No, this person is known to those who are interested in SEIS process.
(5) Is the information on the project available on the website of the responsible authority/Ministry?				0	No.
(6) Was the action plan for the country adopted or is it in the process of development?			1		No it was not adopted but the process of development is being started.
(7) Do the priorities in the plan correspond to the ones proposed by the public?				0	The public knows very little about this.
(8) Has the interdepartmental authority on coordination within the framework of the project at the country level been created or is coordination assigned to already existing interdepartmental authority of environmental monitoring? (specify in the Notes)				0	No.
<b>System of collection/provision of environmental information and the public</b>					
(9) Does the unified electronic database of environmental data exist in the country?				0	No.
If yes, then is it available for the public on the Internet?				0	No.
(10) Does the authority responsible for collection, processing, and				0	No.

provision of environmental information exist in the format, which does not need additional payments and interpretation?					
(11) Does the national legislative act on regularity of preparation and adoption of the National State Of Environment Report exist? (indicate the national legislative act and frequency in the Notes)				0	No.
(13) Does the actual periodicity of issuing of the report comply with requirements of the national legislation?	3				Yes, once in three years
(14) B Is it possible to find information on the main indicators for the last 2 years in free access in case, if the report is issued irregularly?			1		No, not always.
(15) Does the Ministry engage the public to cooperation in collection and/or preparation and/or dissemination of information?			1		No, the Ministry does not engage the public but uses data collected by the NGO.
<b><i>Political will to solve problems of monitoring and information management</i></b>					
(16) Does the Ministry/authorized body openly discuss the problems of the monitoring system and its maintenance?				0	No.
(17) Are significant funds foreseen in the budget of the country/SEPF for improvement of the technical support of the monitoring system?	3				Yes.
(18) Are measures for development of the automated information system and for providing access to this system via Internet foreseen in the Action Plan/budget?				0	No.
(19) Is there a decision on approval of indicators of environmental policy's efficiency (if yes, then what is the status of the document of such a decision)?				0	No.
(20) Have those indicators already been used to assess any existing policy?				0	No.
(21) Has the public been engaged to the works on those indicators?				0	No.
<b><i>Country –specific Questions</i></b>					

<b>Overall assessment :</b> Score of 0 to ... (3x number of questions)	9	2	5		<b>16 (of 63 available)</b>
Per cent					<b>25.4%</b>

***Recommendations:***

1. Make efforts on development of a political document on SEIS implementation.
2. Develop and adopt the necessary legislation and procedures for collection, processing, and dissemination of environmental information.

## ARMENIA

### Objective 1: Strengthening cooperation with the European Union

Question	Yes			No	Notes
	Excellent	Adequate	Poor		
Grade	3	2	1	0	
<i>Policy</i>					
(1) Were negotiations on conclusion of the Association Agreement (AA) started or not? If “yes”, specify the date of the beginning of negotiations in Notes.	3				2010
If “not”, what agreement regulates cooperation of the country with the EU at the present time? (additional question, should not be graded)					There exists the Action Plan of measures which are executed within the ENP framework. Presently, the Action Plan for 2009-2011 is being executed. Reports are being submitted quarterly to the Ministry of Economy of the RA which consolidates the results for the whole republic and prepare reports to the EU.
(2) Was the strategic political instrument for implementation of a decision on holding negotiations on the AA adopted? If “yes”, then does it have a legal act status? For example, Agenda of Association (AofA), other (specify in Notes).	3				Decree of the President of the RA of July 15, 2010 No. ՆԿ-115-Ս, “On Creation of Group Responsible for Negotiations between the RA and EU, and Groups Responsible for Negotiations on Certain Industry Issues within the Framework of Agreement on Association between the RA and EU”
<i>Institutional Aspects</i>					
(3) Does the Ministry of Foreign Affairs have a special unit/department on cooperation with/integration into the EU <sup>5</sup> ?	3				There is the Department of Europe within the Ministry in which the Unit of European Union being responsible for cooperation/integration with the EU was created
(4) Have government officials received training on cooperation/integration with the EU?		2			Occasionally, trainings/informational courses are organized on issues of cooperation for civil

<sup>5</sup>Evaluation is based on the value expert judgment of the efficiency level of authorities of this unit.

					servants with the EU.
(5) Does the government provide the public with information on cooperation policy and on activities with the EU?			1		The Council coordinating issues of cooperation with the EU is created under the Government. It contains NGOs but operates irregularly.
(6) Does the government monitor regularly and officially implementation of the AofA/ another Action Plan?	3				All the institutions involved presents reports on implementation of the Action Plan to the Ministry of Economy, which is the leading organization in relation to this issue and which summarizes the obtained information, on the quarterly basis.
<b><i>Cooperation in the field of the environment</i></b>					
(7) If a policy instrument has been adopted for the AA preparation (like AofA)/Action Plan implementation, does it describe any specific actions and deadlines for achieving environmental objectives?	3				An agreement on terms of execution of regulations of the EU Directives related to the environmental issues is reached within the negotiation process on the AA preparation
(8) Do legislative programming instruments provide for the adoption of the legislation necessary for the implementation of the environmental objectives of the AA/Action Plan?			1		No legislative activities are needed to execute regulations of the RA-EU Cooperation Action Plan (AP). The AP contains particular clauses foreseeing development or improvement of the existing legal acts.
(9) Are annual priorities/action plans on the AofA implementation being approved in the form of regulatory act?				0	
(10) Were the consultations with the NGOs held on contents of the AofA environmental chapter?				0	
<b><i>Country-specific questions</i></b>					
<b>Overall assessment:</b> Score from 0 to ... (3x number of questions)	15	2	2		<b>19 (of 30 available)</b>

Per cent					<b>63.3%</b>
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**Comments and explanations:**

Overall, the process of Armenia’s approaching to the EU is welcomed that will allow (and this is promising) introducing approaches elaborated and applied in the EU into the legislative and economic activities.

It can be stated that activities within the framework of the ENP is more or less successful, particularly:

- The main necessary strategic policy documents (the RA-EU AP and NEAP-2) are adopted in the RA and institutional support of the process of the European Neighbourhood Policy implementation is ensured in the country.
- The RA legislation is significantly synchronized with the EU law principles and terminology.
- The negotiation process between Armenia and the EU within the framework of the AA development is underway, including negotiations on applying provisions of the correspondent EU Directives during mutually accorded terms. The processes of simplifying visa regime and enhancing trading relations are initiated.

***Recommendations:***

It is desirable that:

- The AP implementation was not just imitation in nature, which is the case for some processes, same as in many other post-Soviet countries.
- The above mentioned processes have been developing within the framework of enhancing cooperation with the EU without barriers and within scheduled time.

## Objective 2: Strengthening of administrative structures and procedures

Question	Yes			No	Notes
	Excellent	Adequate	Poor		
Grade	3	2	1	0	
<i>Administrative structures</i>					
<i>At the national level</i>					
(1) Is the Ministry of Environment Protection (EP) established in the country? If yes, do its authorities include all the major environmental issues in the country (e. g. water, wastes, air, biodiversity, etc.)? (Specify the precise name of the Ministry in Notes)	3				Ministry of Nature Protection of Republic of Armenia is created in 1991. In addition to the MNP, the environmental issues are within the competence of the following Ministries: Ministry of Healthcare, Agriculture, Energy and Natural Resources, Transport and Communications, and Economy. However, it should be noted that intersectoral integration for environmental safety is at nonsufficient level.
(2) Are other bodies responsible for the EP issues established? (list in the Notes)		2			<ul style="list-style-type: none"> <li>• A number of commissions and committees also dealing with the EP issues operate under the President and the Government.</li> <li>In particular:</li> <li>• Commission for Sevan Lake Problems operates under the RA President,</li> <li>• The National Council for Sustainable Development, Commission for Forest Rehabilitation and Development, etc. operate under the Prime Minister of the RA.</li> </ul>
(3) Are they subordinate bodies of the Ministry? (Summarize the subordination level in the Notes)			1		Mentioned above councils and commissions and also committees under the Government are interdepartmental in nature and are subordinate to the MNP. The MNP is the member of those councils, commissions, and committees.
(4) Do they duplicate functions of the Ministry?		2			No, they do not duplicate functions of the Ministry but

					facilitate execution of those functions
(5) Has the State EP Fund been created in the country?			1		The State EP Fund is not established in the Republic/ However, the Law of the RA “On Intended Use of Environmental Fees Paid by Communities”. The environmental fees go into the National Budget but have designated purpose and are appropriated for environmental measures in communities and districts in which the defined above communities/enterprises operate and which are under the negative influence
(6) Have its financial resources been increased during the last five years? (specify dynamics of funds for 2007-2009 in the Notes)		2			The amount of the entire budget (but not SEPF which is not established in the country) revenues from environmental and environmental management fees increased 2.23 times in 2008 comparing with 2006. The growth trend preserved consequently
(7) If increased, then was such increase related to indexation of rates of the environmental charges? (in what year did it take place?)		2			The mentioned above is related to coming into force of the Law of the RA “On Rates of Environmental Fees” from 2007
(8) If yes, was it related to improvement of control of the enterprises’ activities?				0	
(9) Is consolidation and prioritization of the SEPF (State Environmental Protection Fund) targeted financing to solve the acute environmental problems observed?			1		See clause on the SEPF above
(10) Is the State Environmental Inspection established in the country?	3				The State Environmental Inspection operates within the MNP and is a separate structural subdivision
(11) Is it an independent authority within the EP system?			1		
<i>At the regional/local level</i>					



(12) Does the structure of the Ministry include its territorial branches? (if yes, specify the administrative coverage in the Notes, for example oblast level branches)	3				The system of especially protected natural areas is within the MNP structure. It consists of 4 national parks, 3 state reserves, 26 wildlife reserves, and also 230 national monuments. 6 territorial basin authorities are within the MNP structure.
(13) Does the State Environmental Inspection have its territorial offices? (if yes, specify the administrative coverage in the Notes, for example district-oblast-region level branches)	3				The oblast local offices of the State Environmental Inspection
(14) Do regional/local authorities have authority in the field of environment protection? Is there clear division of competence between the national and regional/local authorities?			1		The environmental units are established within the structure of oblast governance bodies. However, according to the opinion of the environmental NGOs, there is no clear distribution of authorities and coordination in their actions.
(15) Is the SEPF distributed to the oblast/local level? (if yes, specify then levels, shares of the national-oblast-local level, and also spending units)		2			See clause on the SEPF above. Overall, funding for environmental purposes is executed in the form of subsidies from the State Budget to local authority budgets
<b><i>Strategic planning</i></b>					
(16) Is there an environment protection strategy in place or planned to be adopted? If yes, then is it of a good quality?	3				Currently, the 2 <sup>nd</sup> National Environment Protection Action Plan is being implemented in Armenia (NEAP) (2008-2012). The Plan is designed taking into account the national priorities and up to date approaches in the field of environmental management.
(17) Are the tasks of institutional strengthening of the EP management system included into the strategy?	3				

(18) Have steps been taken to implement the strategy?		2			The major part of NEAP clauses were implemented in full or partially to date. NEAP implementation is being monitored by the Government of the RA. However, according to the opinion of the environmental NGOs, realization of some issues has much room for improvement.
(19) Is the strategy being revised regularly (e. g. once in 5 years?)	3				Currently, the second NEAP is in effect which is designed for 2008-2012
(20) Are there sector-specific strategies to support the overall strategy ?		2			The Strategy of Biodiversity, Strategy on the EP, and Desertisation Action Plan are elaborated in Armenia. However, they were elaborated long time ago and they need/it is planned to be updated/update them.
(21) Are there procedures, such as consultations between the ministries/authorities in place?		2			Yes, there are such procedures. However, as it was mentioned above, issues of intersectoral integration need optimization.
(22) If yes, is the role of the Ministry of Environment and other environmental authorities to coordinate within these procedures?		2			The Ministry within the competence of which is the issue under concern coordinates the interdepartmental consultations
(23) Are there formal procedures to facilitate coordination between the authorities and other relevant actors (civil society, scientific community)?	3				Coordination between authorities and other interested parties is flexible. The public relations units and electronic communication system are established in ministries. In addition, mentioned above councils and commissions under the President and Government of the RA also play significant role in this issue. The NGO network on cooperation with the Parliament of the RA, including cooperation in the issues of concern.
(24) Has cooperation between different stakeholders improved		2			Currently, the negotiation process on Agreement of Association takes place. The

from the moment of the beginning of negotiations on the AA?					need for consultations between different public institutions and other interested organizations emerges during the process of negotiations.
<i>Country-specific questions</i>					
<b>Overall assessment:</b> Score from 0 to ... (3x number of questions)					<b>49 (of 72 available)</b>
Per cent	21	20	6		<b>68%</b>

**Comments and explanations:**

- NEAP-2, the ideology and principles of which comply with the main provisions and requirements listed in the EU-Armenia Action Plan, is developed and approved.
- The RA legislation is sufficiently synchronized with the EU law principles and terminology.

**Recommendations:**

The SEPF is not established in the country that hinders development of the environmental actions' financing. It is necessary to:

- introduce legal and economic mechanisms and stimuli to interest industry ministries in mutual cooperation, particularly ecologization of industry programs and policy.
- develop economic and financial mechanisms stimulating "green economy" development.
- strengthen partnership between the state and private sectors. Opportunities of private entrepreneurship are poor utilized in the country.

To some extent the reason for the latter is incompleteness of legal regulation in the field.

### Objective 3: Development of strategies, plans, and programmes in the environment protection field

Question	Yes			No	Notes
	Excellent	Adequate	Poor		
Grade	3	2	1	0	
<i>Preparation and adoption</i>					
(1) Have relevant strategies, plans, and programmes been prepared from the moment of the Action Plan adoption?		2			NEAP-2, local environmental action plans (LEAP), proposals to local agendas – 21 (for towns of the RA)
(2) Have these strategies, plans or programmes been officially adopted at the level of Parliament/Government?	3				NEAP-2 is adopted via protocol decision of the RA Government in 2008
<i>Process</i>					
(3) Did the ministries play the active role in preparation of strategies, plans or programmes in different sectors, e. g. transport, industry, energy, healthcare? Does the Ministry of Environment play the leading role in their development?		2			As it was already mentioned, the inter-sectoral integration for environmental and SD purposes is insufficient.
(4) Did the local and regional authorities play the active role in preparation of strategies, plans, and programmes?		2			In accordance with the format of participation. Local and regional authorities actively participate in the process of local plans, strategies, and etc. elaboration. Participation of the local authorities in elaboration of the national documents is ensured by the Ministry of Territorial Administration. At the same time, activities of the Erevan City Mayor's Office in the field should be activated.
(5) Did civil society play an active role in different sectors (environmental NGOs, business&industry, others)?		2			Environmental NGOs are extremely active while businesses are not.
<i>Content</i>					

(6) Do newly prepared strategies/plans contain elements of approximation to the EU environmental policy?	3				
(7) Do plans and programmes clearly define division of responsibility for their implementation?		2			
(8) Do the plans and programmes contain clear and realistic financial plan, which define resources, requirements, and ways of implementation?			1		
(9) Do the strategies, plans, and programs define priorities in actions?		2			
(10) Do the strategies, plans, and programmes foresee monitoring, evaluation and reporting mechanisms?		2			
<b>Implementation</b>					
(11) Have any steps been taken to implement the strategies, plans and programmes?			1		The major conflict between environmental NGOs and authorities lies exactly in the field of implementation.
<b>Country-specific questions</b>					
<b>Overall assessment:</b> Score from 0 to ... (3x number of questions)	6	14	2		<b>22 (of 33 available)</b>
Per cent					<b>66.7%</b>

**Recommendations:**

- Development of national reports on the state of environment (SoE) is occasional. Considering that publishing of voluminous reports is a long and expensive process, it is advised to publish information bulletins regularly or place comprehensive information on the state of environment and actions and programs in the process of realization at easily accessible websites.
- Communication between governmental and scientific sectors is insufficient/ the scientific potential is poorly utilized. It is necessary to develop mechanisms ensuring mutual interest of the parties in cooperation.
- There is no unified database of the environmental programs in the process of realization, which complicates organization of a single and efficient field of activities.

**Objective 4: Ensuring integration of environmental aspects into other policy sectors (promoting sustainable development)**

Question	Yes			No	Notes
	Excellent	Adequate	Poor		
Grade	3	2	1	0	
<b><i>Integration of environment into sectoral policies</i></b>					
(1) Is environmental requirements' (policy's) integration into other policy spheres set legally as compulsory?			1		The Law of the RA on Environmental Impact Analysis of 1995. A number of the RA industry laws have provisions relating to environmental commitments.
If not, then is such a decision at the preparatory stage now?					The Draft Law on Amendments to the Law of the RA on Environmental Impact Analysis is approved by the Government of the RA and is passed for adoption to the National Assembly of the RA (Parliament).
(2) Strategies, plans, and programmes: has a common policy been adopted?		2			<ul style="list-style-type: none"> <li>- The adopted in 2008 NEAP includes intersectoral issues and sector programmes which take into account environmental requirements</li> <li>- Appropriate programmes in the field of energy and transport already established.</li> <li>- The SD Concept of the RA was elaborated in 2002 through efforts of scientific and community sectors with participation of representatives of ministries (The Association for Sustainable Human Development serves as coordinator). The Concept was not presented to the Government for approval but was approved by the National Rio+10 Conference and was included into the National Rio+10 Assessment Report presented to MoPSD</li> </ul>
<b><i>Preparation of the National Strategy</i></b>					
(3) Has the national sustainable development strategy been adopted since the signing of the Action Plan?		2			The National Programme of Actions in the field of SD had being developed during the same time period with the RA-EU Action Plan. However, it needs

					optimization from the point of view of strengthening of intersectoral integration.
(4) If no, then is such a strategy at the preparatory stage now?		2			The National Programme of Actions in the field of SD will be revised
(5) Was the national environmental policy strategy adopted from the moment of the Action Plan signature?			1		Works on development of the law on environmental policy are initiated in the RA. The Government of the RA approved the concept of this law in 2011.
(6) If not, then is such a strategy at the preparatory stage now?			1		The circle of institutions responsible for elaboration of this law is defined by the Order of the Ministry of Nature Protection. However, elaboration of the law itself is not initiated yet.
<b><i>Interdepartmental governance bodies</i></b>					
(7) Has the National Sustainable Development Council (NSDC) been created in the country?	3				The NSDC headed by the Prime Minister of the RA is established in 2002 following the Decision of the Government of the RA. Activation of its operation started from 2007.
(8) Are the representatives of nine major society groups represented in it?	3				
(9) Are the representatives of environmental NGOs represented in it?	3				
(10) Are the activities of the NSDC transparent and are they properly communicated?	3				
(11) Does the NSDC consider issues related to integration of environmental policy?		2			Yes, but does this with insufficient regularity.
(12) Were the general committees created or other measures taken towards integration of environment into the sectoral policy?			1		Sectoral committees are foreseen but they are not established. Activation of sectoral committees is planned within the framework of preparation to Rio+20.
<b><i>Some instruments of the environmental policy integration</i></b>					
(13) Has legislation on the obligatory carrying out of the EIA (SEA) in relation to policies, strategies, plans, and programmes		2			The Law of the RA "On Environmental Expertise" of 1995 foresees, in general outline, environmental expertise of strategic documents.

been adopted?					
(14) If yes, then are there positive practices of the EIA (SEA) carrying out?	3				Public hearing of large-scale plans and draft laws are being held from 2001-2002. For example, public hearings of the Draft Water Code were held. The Code was adopted in 2002.
(15) If not, then is such legislation at the preparatory stage now?	3				The Government of the RA adopted with reservations the new Draft Law of the RA on amendments to the Law of 1995. The Draft Law regulates the procedure of strategic environmental assessment of plans and programmes.
(16) Is the law on environmental audit adopted?				0	
(17) If not, then is such a law at the preparatory stage now?				0	
(18) Have new economic instruments been established to stimulate more efficient environmental management on enterprises since signing of the Action Plan? If yes, provide an example in the Notes.				0	
<b>Process</b>					
(19) Did ministries in different sectors play an active role in preparation of the SD strategy?		2			Mainly the Ministry of Economy and also the Ministry of Nature Protection, and other sectoral ministries.
(20) Did representatives of civil society play an active role in different sectors (environmental NGOs, manufacturing industry, others)?		2			Mainly NGOs play an active role. The network of NGOs on the RA SD Programme elaboration and implementation is established and operates.
(21) Были ли предложения общественности к тексту учтены в финальном документе?			1		Partially taken into account
(22) Did Ministries play an active role in preparation of the environmental policy strategy in different			1		



sectors?					
(23) Did representatives of civil society in different sectors (environmental NGOs, industry, others) play an active role?		2			The Draft Law on environmental policy was heard at the meetings of the Community Council under the President of the RA and at the meeting of the Ministry of Nature Protection with participation of the environmental NGOs.
(24) Have the text proposals of the public been taken into account in the final document?	3				
<b>Implementation</b>					
(25) If the SD strategy was adopted, then have steps been taken to implement its actions?				0	As it was mentioned above, the strategy is under revision
(26) If the environmental policy strategy was adopted, then have the steps been taken to implement its actions?			1		As it was mentioned above, the Draft Law on environmental policy is just submitted to the Parliament so far but the process of NEPAP implementation may also be, partially, a response to this question.
<b>Country-specific questions</b>					
<b>Overall assessment:</b> Score from 0 to ... (3x number of questions)	21	16	8		<b>45 (of 78 available)</b>
Per cent					<b>57.6%</b>

### Comments and explanations:

- The national sustainable development programme is adopted by a Decision of the RA Government. Relevant state authorities regularly submitted progress reports on activities envisaged by the SD programme; however, in relation to new developments and also due to global financial crisis, which had impact on Armenia some provisions of this programme were subject to revision. As it was mentioned in clause 3, the programme needs revision; particularly it needs optimization from the point of view of strengthening cross-sectoral integration. Activities in this respect are planned.

- Armenia had adopted the Law on Environmental Expertise already in 1995. However, it is not always fully operational, especially concerning public hearings organization. There are also examples when economic activities are initiated (and accomplished) without conclusions of an environmental expertise.

- Public hearings of large-scale plans and draft laws are held in Armenia from 2001-2002. For example, public hearings on the Draft Water Code of the RA were held. The Code was adopted in 2002. Unfortunately, public hearings, concerning this issue often take place just on paper. The public opinion is also often not taken into account in decision making.

***Recommendations:***

- The sectoral integration of the sustainable development (SD) principles is weak in the SD Programme and, correspondently, is insufficiently realized in practice. It is necessary to pay more attention to this block in the process of the new national sustainable development programme.
- It is necessary to strengthen the regulatory role of the state, aiming at ecologization and socialization of development processes, ensuring the sectoral integration of the sustainable development principles.
- It is necessary to make procedure of considering public opinion in the decision-making process clearer in the legislation.

## Objective 5: Reinforcing of structures and procedures to carry out environmental impact assessment (EIA)

Question	Yes			No	Notes
	Excellent	Adequate	Poor		
Grade	3	2	1	0	
<i>General aspects</i>					
(1) Does the existing legislation require EIA for activities likely to have significant impact on natural resources and the environment? If not, is the adoption of such legislation planned?	3				The Law of the RA “On Environmental Impact Assessment” is adopted in 1995.
<i>Structures</i>					
(2) Are responsibilities clearly defined and distributed between the national and regional/local governments?				0	There are no regional offices of the State Environmental Expertise in the RA.
(3) Is the capacity of the regulatory authorities sufficient? <sup>6</sup>			1		
<i>Procedures</i>					
(4) Are criteria and procedure for defining which activities are subject to EIA clearly established?			1		The list of activities which need holding of the EIA is introduced by the Law of the RA “On Environmental Impact Assessment”. Regulation of this issue is more substantiated by the Draft Law on amendments to the effective Law of 1995. In addition, the Decree of the Government of the RA “On Threshold of Planned Activities Subject to Environmental Impact Analysis” was adopted in 1999. It is worth noting that environmental NGOs think that this list needs stiffening.
(5) Does the procedure in place provide for a preliminary screening stage to decide if an EIA is	3				The procedure is foreseen by Article 6 of the Law of the RA “On Environmental Impact Analysis”

<sup>6</sup>This question is rather subjective benchmark, although it is important as without sufficient capacity, legal requirements can hardly be implemented and enforced. It relates mainly to the number and the degree of qualifications of people in charge of reviewing EIA at the national and regional level

required for the proposed project?					
(6) Does the procedure in place provide for a scoping stage to identify the potential significant impact and main alternatives to assess?	3				The national legislation foresees preliminary environmental impact assessment
(7) Is the information to be provided by the developer in the EIA clearly established e.g. through setting the minimum content of the EIA?			1		According to Article 7 of the Law of the RA “On Environmental Impact Analysis” an entrepreneur (private of legal entity) is required to present the necessary documents for expertise. The list and scope of documents and data those documents contain are determined by the Government of Republic of Armenia basing on proposals of authorized body. However, requirements on the list of documents and criteria to the information provided have to be clearly stated in the law and the Government can introduce requirements to the scope of documents’ content. The correspondent clarifications are introduced in the new Draft Law. (p.13).
(8) Are consultation procedures with authorities likely to be concerned by the project in place and well applied?		2			
(9) Does the legislation clearly require the relevant country authorities and stakeholders to be informed in the case of probable trans-boundary impacts?		2			The effective Law does not regulate this issue. The Draft Law of the RA on amendments to the effective Law regulates the issues related to possible trans-border impact of the planned activities. In addition, similar requirement is set forth in the Espoo Convention which was ratified by Armenia in 1997.

(10) Does the legislation clearly require consultations with the relevant country authorities and stakeholders in case of probable trans-boundary impacts?			1		See above. The Espoo Convention which was ratified by Armenia and its provisions are obligatory even in case when the national legislation does not contain proper provisions. However, the Convention does not regulate the procedural issues related to consultations. They may be clarified within bilateral agreements and negotiations. Until recently such issues did not emerge.
(11) Are clear procedures in place to ensure effective information for the public early stages on in the process?		2			This issue is spelled out in clearer manner in the new Draft Law (see above).
(12) Is the public concerned given early and effective opportunities to participate in decision-making environmental procedures?			1		The correspondent right is granted to society, even though it is exercised rarely.
(13) Are the results of the consultations with the public and relevant environmental authorities taken into account in the decision-making process?		2			Yes, but unfortunately not on early stages. Often issues are being considered when society expresses its discontent in relation to already adopted decisions which then are being revised in the end.
(14) Is the competent authority required to inform the public of the decision to grant or refuse to provide consent on implementation of the project?			1		Yes, the authority is required to do so but often the authority often provides information through rather passive but not active form.
(15) Is the competent authority required to inform countries consulted in case of trans-boundary impact of the decision to grant or refuse development to the developer?		2			This issue is being regulated by the Espoo Convention. Armenia is a party of Espoo Convention.
(16) Are the exceptions to information rights, e. g. related, for example, to		2			Yes, legislation regulates this issue but sometimes the information is provided

commercial confidentially clearly set out?					unreasonably.
(17) Can the state authority which takes a decision on consent on implementation of the project to impose additional requirements in relation to positive decision?		2			
(18) Is a public right of appeal against the decision clearly set up and in place?			1		The appeal procedure is inefficient in practice.
(19) Does the EIA procedure include a follow-up requirement concerning the post-project analysis? If yes, is it well applied?				0	
<b>Implementation of the Espoo Convention</b>					
(20) Did the country ratify this multilateral environmental agreement?	3				The Espoo Convention is ratified by Armenia in 1997.
(21) Was the legislation adopted or changed in order to implement requirements of the international agreement?	3				The Law of the RA “On Environmental Impact Assessment” is adopted in the RA prior to ratification of the Convention. Presently, the Government of the RA adopted the Law on amendments to effective law.
(22) If yes, then does this reflect obligations foreseen by the agreement properly?	3				
(23) Were the other measures taken in order to implement the international agreement?	3				The information on provisions of the Convention is disseminated and trainings are held in the country. In particular, the Guide on Convention implementation was translated into Armenian in the near-border districts and the regional seminar on strengthening potential for Convention implementation was held in the RA.
(24) Does the system of reporting on results of implementation of the international agreement exist in the country?	3				The apparatus of the President and MFA receive reports on implementation of international agreements twice a year, including reports on the mentioned

					Convention. In addition, the five-year plans on implementation of conventions are being elaborated and approved by the Government. Reports on progress in implementation of the plan are submitted to the Government of the RA and the MFA twice a year.
(25) If yes, then did the country already report on results of the agreement implementation?	3				See above.
(26) Was the country recognized as the country not following the international agreement?				0	The Committee on implementation of the Espoo Convention recognized Armenia as a country which does not implement provisions of the Convention in 2004. The insufficient reflection of the trans-border EIA issues in legislation served as the ground for such conclusion. The legislation is being improved as of now.
<b><i>Implementation of the Protocol on Strategic Environmental Assessment (SEA)</i></b>					
(27) Did the country ratify this multilateral environmental agreement?	3				The Protocol on the CEA was ratified in April 2011.
(28) Was the legislation adopted or changed in order to implement requirements of the international agreement?	3				The Draft Law on amendments to the effective Law regulates issues related to the SEA
(29) If yes, then does this reflect obligations foreseen by the agreement properly?	3				
(30) Were the other measures taken in order to implement the international agreement?	3				The information on provisions of the Protocol is being disseminated and trainings devoted to these provisions are being held in the country. The new 5-year plan on implementation of the international environmental agreements contains measures on implementation of the Protocol.

(31) Does the system of reporting on results of implementation of the international agreement exist in the country?	3				The apparatus of the President and MFA receive reports on implementation of international agreements twice a year, including reports on the mentioned Convention. In addition, the five-year plans on implementation of conventions are being elaborated and approved by the Government. Reports on progress in implementation of the plan are submitted to the Government of the RA and the MFA twice a year.
(32) If yes, then did the country already report on results of the agreement implementation?				0	
(33) Was the country recognized as the country not following the international agreement?				0	
<b><i>Country-specific questions</i></b>					
<b>Overall assessment:</b> Score from 0 to ... (3x number of questions)	33	14	7		<b>63 (of 99 available)</b>
Per cent					<b>63.6%</b>

**Comments and explanations:**

Armenia was acknowledged as a county, having problems with implementation of the Convention, because of insufficient regulation of issues, related to the trans-border EIA procedure.

Presently, legislation is in the process of improvement. The Draft Law on amendments to the effective law was approved by the RA Government and passed for adoption to the Parliament.

***Recommendations:***

The adopted in 1995 Law of the RA on Environmental Impact Analysis in general regulates quite fairly the process of environmental impact analysis procedure realization, including the procedures for project application submission and application volume, criteria of planned activity, which is subject to the EIA, public participation, etc.

However, frequent violation of the law takes place in practice all the way to economic activity realization without conducting of the EIA and without positive conclusion of the environmental expertise.

It is necessary to:



- harden legislatively the responsibility for inobservance and violation of a law, develop criteria for license forfeit in cases of flagrant violations, intensify the process of country's democratization in general and "environmental democracy" development in particular. Raise the efficiency of public participation, aiming at obtaining of real influence of the public on the process of making decisions, relevant to environment.
- establish the practice of trainings on the EIA issues, introduce the EIA course into curricula of the law, economic, and technical educational institutions/faculties.

## Objective 6: Improving access to information and public participation

Question	yes			No	Notes
	Excellent	Adequate	Poor		
Grade	3	2	1	0	
<b>Implementation of Aarhus Convention</b>					
(1) Has the country ratified this multilateral environmental agreement?	3				The Aarhus Convention was ratified by Armenia in 2001.
(2) Was the legislation adopted or changed in order to implement requirements of the international agreement?		2			In general, prior to the moment of the Convention ratification the legislation of the RA ensured legislative framework for implementation of the Convention. Additional momentum was set with adoption of the new Constitution in 2007. Certain amendments were introduced into effective laws.
(3) If yes, then does this properly reflect obligations foreseen by the agreement?	3				
(4) Were the other measures taken in order to implement the international agreement?	3				The information on provisions of the Convention is disseminated and trainings are held in the country. In particular, the Guide on Convention implementation was translated into Armenian for judges and members and employees of the Parliament and the number of seminars on strengthening potential for Convention implementation was held in the RA. 15 environmental information centres (Aarhus Centres) operate in the country. The Environmental Law Centre was established under ESU and other measures were taken in the country.
(5) Does the reporting system on results of implementation	3				The apparatus of the President and MFA receive

of the international agreement exist in the country?					reports on implementation of international agreements twice a year, including reports on the mentioned Convention. In addition, the five-year plans on implementation of conventions are being elaborated and approved by the Government. Reports on progress in implementation of the plan are submitted to the Government of the RA and the MFA twice a year.
(6) If yes, then did the country already report on results of the convention's implementation?	3				
(7) Was the country recognized as the country not following the international agreement?*				0*	Such decision was made by the Conference of Parties twice basing on statements of the country NGOs. We think that active position of the NGOs is in compliance with the letter of the Convention.
<b><i>Implementation of the PRTR Protocol</i></b>					
(8) Has the country ratified this multilateral environmental agreement?				0	
Was the legislation adopted or changed in order to implement requirements of the international agreement?				0	
If yes, then does this properly reflect obligations foreseen by the agreement				0	
Were the other measures taken in order to implement the international agreement?				0	
Does the reporting system on results of implementation of the international agreement exist in the country?				0	In general – see above. Reports on implementation of this agreement are not submitted.
If yes, then did the country already report on results of the agreement implementation?				0	
Was the country recognized as the country not following the international agreement?*				0*	

<i>Access to environmental information</i>					
(9) Are there satisfactory administrative systems in place for prompt responses to requests for information from the general public?		2			The legislation of the RA determines terms during which the answers to requests of society have to be provided.
(10) Are there satisfactory guidelines available on information held by the state authorities and how to request access to such information?	3				The brochure providing contact addresses for obtaining environmental information is published in the RA. The environmental information is placed on the websites of the MNP, State Committee of Statistics, and other authorities.
(11) Are there well-established channels of the environmental information publication in the country (for example, laws, case-law, decisions of executive authorities and etc.)?		2			See above
(12) Is access to information free of charge <sup>7</sup> or inexpensive <sup>8</sup> ?		2			
(13) Is there a secure data management system to handle commercially sensitive information and personal data in the country?	3				
(14) Are there clear guidelines for authorities on how to apply commercial confidentiality requirements, including on information disclosure due to public interest?			1		
<i>Participation of the public</i>					
(14) Are there procedures for enabling public participation in decision making in place, e. g. have clear procedures been established for submitting of written comments or comments at hearings and for the notification of decisions?			1		

<sup>7</sup>If yes, then the answer has to be “yes” – “excellent”.

<sup>8</sup>If yes, then the answer has to be “yes” – “good” or “yes” – “satisfactory” depending whether the access still remains simple despite payment or if there exist barriers to access.

(15) If yes, then are citizens well informed of these procedures?			1		
(16) Have tools been developed to identify the participating public? In particular, if there is an Environmental Impact Assessment procedure in place, does it also involve public participation?		2			
(17) Are the outcomes of public participation procedures taken into account in an appropriate manner? Does public input have a tangible influence on the actual content of the decisions?			1		They are taken into account but insufficiently, especially at the early stages of consideration of issues and decision making.
(18) Have incentives been developed to allow applicants to engage in early dialogue with public?				0	
<b><i>Access to Justice</i></b>					
(19) Does the country provide for independent and impartial review bodies, including courts?		2			
(20) Have clear rules been developed in relation to the right of individuals and the NGOs to access judicial and other reviews for violations of the Convention and for violations of national environmental legislation?			1		
(21) Is the mechanism to suspend execution of a decision, which is dangerous for environment developed (e.g. preliminary injunction for the period of decision appeal)?		2			Yes, even though this mechanism is not always efficient.
(22) Have the mechanisms been established to provide the public with information on access to justice procedures?			1		According to Article 6 of the Constitution of Armenia and the Law of the RA “On Legal Acts”, the information is being provided through publication of legal acts and publications of state institutions and NGOs.

(23) Have assistance mechanisms been developed for the public in accessing to the procedures, for example, financial support to pay for lawyer's services if necessary?				0	
(24) Is there a time limit set by national legislation between the beginning of an appeal and a legal decision? If not, is the average of such a procedure acceptable?				0	
<i>Country –specific questions</i>					
<b>Overall assessment:</b> Score of 0 to ... (3x number of questions)	18	14	6		<b>41 (of 72 available)</b>
Per cent					<b>56.9%</b>

#### **Comments and clarifications:**

As for clauses 2-7 of the Chapter Implementation of the Aarhus Convention:

Clauses 2-6 obtained high grades (2-3) since:

- within the process of the national legislation development regulations are introduced to it and approaches are regulated in compliance with the international commitments, including provisions of the Aarhus Convention. The state program on approximation to and harmonization with the European countries' legislation (clauses 2,3)

- in general, significant work was done within the framework of the Aarhus Convention implementation in Armenia. Notes to clause 4 provide the outline of realized activities. In addition, one can note existence of websites of governmental organizations, including the website of the RA Government, at which accessible information on planned activities, draft laws, and plans is placed.

It is necessary to note high activity of the number of the NGOs, many of which are included into different committees and commissions under the Government and other state authorities. The institute of public hearings is evolving in the country. As of now public hearings were held for the number of draft laws and also for planned activities, etc.

- Comprehensive information is provided for clause 5, while for clause 6 it can be mentioned that besides presentation of reports to the national bodies listed in Notes to clause 5 Armenia in accordance with the Convention regularly and timely submits reports to the Secretariat of the Convention. These reports are placed at the website of the Convention.

High grades for clauses 2-6 are not in contradiction with the decision of the Conference of Parties of the Convention that Armenia was recognized, as the country having problems with implementation of the Convention.

Such decision was made, basing on appeals to the Secretariat of the Convention of some community organizations concerned with present in the country violations of the national legislation requirements. This shows commitment and awareness of the public on its rights, on rights, provided to it by the Aarhus Convention. But, in general, it is an evidence of high consciousness and concern of the general public in the country. It is worth mentioning that decisions of the Conference of Parties of the Convention are advisory in nature and facilitate attention, focusing on weaknesses of implementation.

***Recommendations:***

Civil society in the country is being formed, mechanisms, methods, measures for implementation of Aarhus convention are being developed. Presence of 15 Aarhus centres in the country deserves a special attention.

Meantime there are problems with law execution, multiple breach of the norms also have place.

It is necessary:

- to intensify the democratisation process in the country as a whole and development of the “environmental democracy” in particular.
- to increase the effectiveness of public participation with the aim to reach real public influence on the process of adoption of environmentally important decisions.
- to increase the control of law execution.

## Objective 7: Cooperation on development of the Shared Environmental Information System (SEIS)

Question	yes			no	Notes
	Excellent	Adequate	Poor		
Grade	3	2	1	0	
<i>Implementation of the SEIS Project</i>					
(1) Did experts of SEIS project make country visit to identify priorities and plan of activities?	3				
If not, is it planned to organise such a visit in the nearest future?					
(2) If yes, then were representatives of the public invited to such a meeting?	3				
(3) Is a person responsible for implementation of the project in the country appointed in the Ministry/another authority?	3				
(4) Does the public know the appointed responsible person?		2			
(5) Is the information on the project available on the website of the responsible authority/Ministry?				0	
(6) Was the action plan for the country adopted or is it in the process of development?				0	SEIS is under development within the framework of the regional ENPI/SEIS project. The plans for the whole region are under development. Armenia is the first country which submitted its Report.
(7) Do the priorities in the plan correspond to the ones proposed by the public?				0	
(8) Has the interdepartmental authority on coordination within the framework of the project at the country level been created or is coordination assigned to already existing interdepartmental authority of environmental				0	



monitoring? (specify in the Notes)					
<b><i>System of collection/provision of environmental information and the public</i></b>					
(9) Does the unified electronic database of environmental data exist in the country?				0	
If yes, then is it available for the public on the Internet?					
(10) Does the authority responsible for collection, processing, and provision of environmental information exist in the format, which does not need additional payments and interpretation?	3				The National Statistical Service regularly publish environmental information in easy to understand for general public form at the website: <a href="http://www.armstat.am">www.armstat.am</a>
(11) Does the national legislative act on regularity of preparation and adoption of the National State Of Environment Report exist? (indicate the national legislative act and frequency in the Notes)			1		The annual MNP reports are placed at the website of the ministry – <a href="http://www.mnp.am">www.mnp.am</a> The annual Statistics Committee reports are placed at the website: <a href="http://www.armstat.am">www.armstat.am</a> The National Report on situation with environment was published just twice: in 1993 and in 2003. Just Report of the Ministry on situation with environment was published in 2005.
(12) Does the actual periodicity of issuing of the report comply with requirements of the national legislation?				0	
(13) B Is it possible to find information on the main indicators for the last 2 years in free access in case, if the report is issued irregularly?			1		See above
(14) Does the Ministry engage the public to cooperation in collection and/or preparation and/or dissemination of information?			1		
<b><i>Political will to solve problems of monitoring and information management</i></b>					

(15) Does the Ministry/authorized body openly discuss the problems of the monitoring system and its maintenance?			1		
(16) Are significant funds foreseen in the budget of the country/SEPF for improvement of the technical support of the monitoring system?			1		Funds envisaged in the budget are insufficient for improvement of the monitoring systems' technical base
(17) Are measures for development of the automated information system and for providing access to this system via Internet foreseen in the Action Plan/budget?				0	
(18) Is there a decision on approval of indicators of environmental policy's efficiency (if yes, then what is the status of the document of such a decision)?				0	In the meantime – no. However, it is planned to elaborate EEP indicators on the basis of indicators developed by the UNECE WG.
(19) Have those indicators already been used to assess any existing policy?				0	
(20) Has the public been engaged to the works on those indicators?			1		
<b>Country –specific Questions</b>					
<b>Overall assessment :</b> Score of 0 to ... (3x number of questions)	12	2	6		<b>20 (of 60 available)</b>
Per cent					<b>33.3%</b>

**Recommendations:**

Implementation of the Shared Environment Information System (SEIS) and the inclusion of Armenia into a regional network is one of the priorities of environmental policy. Need to strengthen the capacity/ capacity monitoring system, including the training of qualified specialists.

# BELARUS

## Objective 1: Strengthening cooperation with the European Union

Question	Yes			No	Notes
	Excellent	Adequate	Poor		
Grade	3	2	1	0	
<i>Policy</i>					
(1) Were negotiations on conclusion of the Association Agreement (AA) started or not? If “yes”, specify the date of the beginning of negotiations in Notes.				0	No. There are no negotiations on association. Republic of Belarus is among the countries which did not accept the Action Plans.
If “not”, what agreement regulates cooperation of the country with the EU at the present time? (additional question, should not be graded)	-	-	-	-	-
(2) Was the strategic political instrument for implementation of a decision on holding negotiations on the AA adopted? If “yes”, then does it have a legal act status? For example, Agenda of Association (AofA), other (specify in Notes).				0	There are no negotiations on Agreement on Association.
<i>Institutional Aspects</i>					
(3) Does the Ministry of Foreign Affairs have a special unit/department on cooperation with/integration into the EU <sup>9</sup> ?		2			The Head Department for Europe exists within the MFA and is responsible for relationships with the EU (other than integration issues)/ There is also separate division on integration with Russia (within the Union state) and Department for Euro-Asian cooperation.
(4) Have government officials received training on cooperation/integration with the EU?					They receive training on relationships which officially are called “needing normalization”.
(5) Does the government provide the public with information on cooperation policy and on activities with the EU?				1	The President of Republic of Belarus regularly appears with public statements on negative attitude of the Belarusian Government in relation to the EU and to

<sup>9</sup>Evaluation is based on the value expert judgment of the efficiency level of authorities of this unit.

					certain representatives of the EU governing bodies.
Does the government monitor regularly and officially implementation of the AofA/ another Action Plan?	-	-	-	-	Republic of Belarus is among the countries which did not accept the Action Plans. There are no negotiations on Agreement on Association.
<b>Cooperation in the field of the environment</b>					
If a policy instrument has been adopted for the AA preparation (like AofA)/Action Plan implementation, does it describe any specific actions and deadlines for achieving environmental objectives?	-	-	-	-	Republic of Belarus is among the countries which did not accept the Action Plans. There are no negotiations on Agreement on Association.
Do legislative programming instruments provide for the adoption of the legislation necessary for the implementation of the environmental objectives of the AA/Action Plan?	-	-	-		Republic of Belarus is among the countries which did not accept the Action Plans. There are no negotiations on Agreement on Association.
Are annual priorities/action plans on the AofA implementation being approved in the form of regulatory act?	-	-	-	-	Republic of Belarus is among the countries which did not accept the Action Plans. There are no negotiations on Agreement on Association.
Were the consultations with the NGOs held on contents of the AofA environmental chapter?	-	-	-	-	Republic of Belarus is among the countries which did not accept the Action Plans. There are no negotiations on Agreement on Association.
<b>Country-specific questions</b>					
<b>Overall assessment:</b> Score from 0 to ... (3x number of questions)		2	2		<b>4 (of 15 available)</b>
Per cent					<b>26.7%</b>

### Comments and explanations:

The obtained result cannot be considered as the one characterizing the process of strengthening cooperation with the EU as having positive dynamics, since actual situation has direct opposite direction: many issues were not taken into account due to absence of proper agreements with the EU. The policy co cooperation itself is extremely unproductive and unconstructive on the side of Republic of Belarus.

Belarus does not have correspondent plans and does not seek to create them because the main integration vector has clear Eastern direction.

At the same time, developers consider European provisions and standards as the most progressive and often are taken as the basis in development of environmental legislation.

## Objective 2: Strengthening of administrative structures and procedures

Question	Yes			No	Notes
	Excellent	Adequate	Poor		
Grade	3	2	1	0	
<b>Administrative structures</b>					
<i>At the national level</i>					
(1) Is the Ministry of Environment Protection (EP) established in the country? If yes, do its authorities include all the major environmental issues in the country (e. g. water, wastes, air, biodiversity, etc.)? (Specify the precise name of the Ministry in Notes)	3				The Ministry of Natural Resources and Environment Protection.
(2) Are other bodies responsible for the EP issues established? (list in the Notes)		2			The Ministry of Environment has in direct subordination the number of state administration authorities and other organizations. The number of Ministries and institutions deal with environmental issues, which are within their competence (in particular, the Ministry of Health is responsible for issues with medical waste, etc.). Activities are “complementary” to activities of the Ministry of Environment.
(3) Are they subordinate bodies of the Ministry? (Summarize the subordination level in the Notes)	3				The subordination is outlined in the Annex 1. Some share of organizations is in direct subordination to the Ministry of Environment, another share is subordinate to institutions under the Ministry of Environment (see above).
(4) Do they duplicate functions of the Ministry?		2			Functions are not duplicated but are distributed by the Ministry of Nature in accordance with areas of activities of particular bodies.
(5) Has the State EP Fund been created in the country?		2			The State Environmental Fund is established and is a source of financing of many areas of activities of the environmental institutions. Cases of

					inappropriate spending of funds were not observed. Since 2012 the decisions on distributions of finances will be taken not by Ministry of Nature.
(6) Have its financial resources been increased during the last five years? (specify dynamics of funds for 2007-2009 in the Notes)			1		Yes. However, according to the opinion of representatives of the Ministry of Nature, it would be inappropriate to call the appropriated financing insufficient. In addition, the 300% devaluation of the national currency in 2011 levels all the increases in Fund revenues during the last 5 years.
(7) If increased, then was such increase related to indexation of rates of the environmental charges? (in what year did it take place?)		2			The indexation of 19% was performed in 2007 (the Decree came into effect in 2008). Also additional financing from other sources of budget revenues is directed to the Fund on occasional basis.
(8) If yes, was it related to improvement of control of the enterprises' activities?				0	
(9) Is consolidation and prioritization of the SEPF (State Environmental Protection Fund) targeted financing to solve the acute environmental problems observed?				0	
(10) Is the State Environmental Inspection established in the country?	3				The environmental inspections are local district bodies in Republic of Belarus and belong to the hierarchy "inspection-oblast committee-the Ministry of Nature"
(11) Is it an independent authority within the EP system?				0	See the previous question. District inspections are within the Ministry of Environment system.
<i>At the regional/local level</i>					
(12) Does the structure of the Ministry include its territorial branches? (if yes, specify the administrative coverage in the Notes, for example oblast level branches)	3				Yes. The hierarchy is built as following: The Ministry of Nature-oblast committees of natural resources and environment protection-district inspections.

Does the State Environmental Inspection have its territorial offices? (if yes, specify the administrative coverage in the Notes, for example district-oblast-region level branches)	-	-	-	-	District inspections are territorial bodies in the RB and have no additional units, since they themselves are divisions of the lower administration level of the Ministry of Environment.
(13) Do regional/local authorities have authority in the field of environment protection? Is there clear division of competence between the national and regional/local authorities?	3				Yes. The local authorities are responsible for environmental supervision. The Ministry works at the level of development of the legal acts and strategies/plans.
(14) Is the SEPF distributed to the oblast/local level? (if yes, specify then levels, shares of the national-oblast-local level, and also spending units)	3				Financial means which funds receive are distributed as follows: 10% – into the Republican fund; 30% – into oblast funds, and 60% – into district and city funds.
<b><i>Strategic planning</i></b>					
(15) Is there an environment protection strategy in place or planned to be adopted? If yes, then is it of a good quality?				0	The Ministry of Natural Resources developed “Main Directions of Environmental Policy of Republic of Belarus by 2025”. The document was adopted at the meeting of Collegium of the Ministry of Nature but it is not approved at the state level at the moment (it will not be adopted in the nearest future). The document can hardly be called the high quality document. The NGOs submitted proposals on its text improvement numerous times but those proposals were not taken into account in the final version adopted at the meeting of Collegium of the Ministry of Nature.
(16) Are the tasks of institutional strengthening of the EP management system included into the strategy?				0	No. The institutional strengthening of some areas of activities of the Ministry of Nature is realized through other mechanisms. The document contains areas of substantial activities.
(17) Have steps been taken to implement the				0	No, since the draft document “Main Directions of



strategy?					Environmental Policy of Republic of Belarus by 2025” is not adopted at the state level at the moment.
(18) Is the strategy being revised regularly (e. g. once in 5 years?)		2			The periodicity covers much longer period. The strategies and plans on certain directions of environmental activities are revised once in 5 years. Yes, separate strategies and plans exist (e.g. climate, water, etc.); however, similar national programs exist not in all environmental spheres.
(19) Are there sector-specific strategies to support the overall strategy?	2				Yes, certain strategies and plans exist (for example, climate, water, etc.).
(20) Are there procedures, such as consultations between the ministries/authorities in place?		2			During development of strategies, plans, and legal acts which affect the interests of other institutions the Ministry holds consultations with other ministries and introduces corrections in accordance with their remarks and recommendations. The documents are also discussed at the level of the Council of Ministers. We need to stress attention exactly on coordination role of the Ministry of Environment. In case of discrepancies in opinions of the Ministry of Environment and other institutions, the priority is granted often to the Ministry of Energy, Ministry of Finance, Ministry of Industry, etc.
(21) If yes, is the role of the Ministry of Environment and other environmental authorities to coordinate within these procedures?	3				Yes. The Ministry is responsible for coordination with other state administration bodies.
(22) Are there formal procedures to facilitate coordination between the authorities and other relevant actors (civil		2			The Public Advisory Council is established under the Ministry of Natural Resources and Environment Protection. Representatives of the general

society, scientific community)?					public structures are members of the Council. Similar councils are established under several other ministries.
Has cooperation between different stakeholders improved from the moment of the beginning of negotiations on the AA?	-	-	-	-	Not relevant. Republic of Belarus is among the countries which did not accept the Action Plans. There are no negotiations on Agreement on Association.
<i>Country-specific questions</i>					
<b>Overall assessment:</b> Score from 0 to ... (3x number of questions)	18	14	4		38 (of 66 available)
Per cent					54.5%

### Comments and explanations:

Overall the state management system in the field of environment is built quite distinctively and structured (in relation to vertical structure of subordination the Ministry of Environment-oblast committees-district inspections)/ At the level of works on particular areas of activities there are difficulties in distribution of powers (in particular, in the field of climate change continuous distribution of powers of responsible body between different divisions of the Ministry of Environment for several years in a row. This has extremely negative impact on the work of the whole system). It is also worth noting coordination with other Ministries on issues in the field of environment as a problematic component. Presently, the Ministry of Environment has the status of coordination body in solving of such issues; however, during the process of making decisions, the Ministry of Environment does not play the decisive role as a result of which other Ministries (the Ministry of Economy, Ministry of Energy) often block propositions of the Ministry of Environment which could have positive influence in environment protection in Belarus in case of their adoption.

The situation with financial resources of the environment protection system cannot be considered simple. Often planned budget financing does not correspond to real needs. Difficult economic situation in the RB also caused significant difficulties.

THE LIST of state organizations, subordinated to the Ministry of Natural Resources and Environment Protection of the Republic of Belarus:

1. Republican unitary enterprise “Central scientific and research institute for the complex usage of water resources”, Minsk
2. Republican scientific and research unitary enterprise «Ecology», Minsk.
3. Republican unitary enterprise “Centre of international environmental projects, certification and audit “Ecologyinvest”; Minsk.
4. State educational establishment “Republican study centre of training, career enhancement and continuing education on EP”, Minsk

5. State museum of nature and ecology of the Republic of Belarus, Minsk.

6. Republican Centre of Analytical Environmental Control, Minsk.

#### Hydrometeorology department

7. Public agency “Republican Aviation and Meteorological Centre”, Minsk.

8. Public agency “Republican Centre for Radiation Control and Environmental Monitoring”, Minsk.

9. Public agency “Republican hydrometeorology centre”, Minsk.

10. Public agency “Brest Oblast Hydrometeorology and Environmental Monitoring Centre”, Brest

11. Public agency “Vitebsk Oblast Hydrometeorology and Environmental Monitoring Centre”, Vitebsk.

12. Public agency “Gomel Oblast Hydrometeorology and Environmental Monitoring Centre”, Gomel.

13. Public agency “Grodno Oblast Hydrometeorology and Environmental Monitoring Centre”, Grodno.

14. Public agency “Mogilev Oblast Hydrometeorology and Environmental Monitoring Centre named after O.Y. Shmidt”, Mogilev.

#### Geology department

15. Republican geological surveyance unitary enterprise “Belgeologia”, Minsk.

16. Republican Unitary Enterprise "Belarussian Research Geological Exploration Institute", Minsk.

17. “BelGeo” Scientific Research Geological Enterprise, Minsk.

18. R&D and manufacturing republican unitary enterprise “Cosmoaerology”, Minsk

19. Republican unitary enterprise “Belorussian state geology centre”, Minsk

### Objective 3: Development of strategies, plans, and programmes in the environment protection field

Question	Yes			No	Notes
	Excellent	Adequate	Poor		
Grade	3	2	1	0	
<i>Preparation and adoption</i>					
Have relevant strategies, plans, and programmes been prepared from the moment of the Action Plan adoption?	-	-	-	-	Not relevant. Republic of Belarus is among the countries which did not accept the Action Plans. Development of programs and plans is being conducted regardless the situation with EU cooperation.
Have these strategies, plans or programmes been officially adopted at the level of Parliament/Government?	-	-	-	-	Not relevant. Republic of Belarus is among the countries which did not accept the Action Plans. Programs and strategies on the number of environmental issues were set during the recent years; however, this is related solely to domestic policy of Belarus in the field of environment protection.
<i>Process</i>					
(1) Did the ministries play the active role in preparation of strategies, plans or programmes in different sectors, e. g. transport, industry, energy, healthcare? Does the Ministry of Environment play the leading role in their development?			1		The Ministry of Natural Resources plays the leading role during elaboration of similar documents. The process of communications with other institutions can be described as the one causing difficulties, since there were precedents of blocking positive initiatives of the Ministry of Nature by other ministries (the Ministry of Energy, Ministry of Finance, and Ministry of Economy) at the stage of interdepartmental coordination.
(2) Did the local and regional authorities play the active role in preparation of strategies, plans, and programmes?				0	No. The documents of the national strategic level are elaborated by the working groups formed at the level of the Ministry. Documents are approved by the Council of Ministers.

(3) Did civil society play an active role in different sectors (environmental NGOs, business & industry, others)?			1		The general public is engaged into discussions on programmes and plans through the Public Advisory Council under the Ministry of Nature. However, the actual practice shows that propositions submitted by the NGOs almost never are taken into account by the Ministry of Nature during the process of further work on the documents. Furthermore, often NGOs do not receive justified and unambiguous written answers on reasons of proposal refusal.
<b>Content</b>					
(4) Do newly prepared strategies/plans contain elements of approximation to the EU environmental policy?			1		Partially. The strategies/plans in certain areas of environment protection contain elements on approximation to the EU legislation. Documents are approved by the Council of Ministers. Because of Belarus entering the Customs Union many standards are being adjusted in accordance with Russian legislation.
(5) Do plans and programmes clearly define division of responsibility for their implementation?			1		They identify but often inadequately. Institutionally, structures experience continuous changes.
(6) Do the plans and programmes contain clear and realistic financial plan, which define resources, requirements, and ways of implementation?			1		Programmes and plans contain financial plans but it cannot be called sufficiently detailed. It does not contain ways to fulfil it. In addition, under conditions of significant devaluations of the national currency current financial plans need serious revision.
(7) Do the strategies, plans, and programs define priorities in actions?		2			
(8) Do the strategies, plans, and programmes foresee monitoring, evaluation and				0	No. Just areas of activities are indicated, the monitoring mechanisms, and evaluations are not separately and clearly

reporting mechanisms?					described. Monitoring on the side of public is not provided in principle.
<b>Implementation</b>					
(9) Have any steps been taken to implement the strategies, plans and programmes?		2			One can say that implementation complies with plans taking into account adjustment to actual situation in one or another area at the moment of implementation.
<b>Country-specific questions</b>					
<b>Overall assessment:</b> Score from 0 to ... (3x number of questions)		4	5		<b>9 (of 27 available)</b>
Per cent					<b>33.3%</b>

**Comments and explanations:**

Development of the national strategies, programs, and plans in Republic of Belarus is conducted beyond the framework of cooperation with the European Union. Such documents are being developed in compliance with the needs and priorities of the national environmental policy or in compliance with the other international commitments (e.g. in accordance with environmental UN conventions).

The process of communication with other interested parties is complicated. Other ministries and institutions play the negative role; block many positive initiatives of the Ministry of Environment. On the other hand, the Ministry of Environment itself is highly reluctant, when we talk about contacts with representatives of civil society submitting proposals during the development process. Such proposals are almost not taken into account.

**Objective 4: Ensuring integration of environmental aspects into other policy sectors (promoting sustainable development)**

Question	Yes			No	Notes
	Excellent	Adequate	Poor		
Grade	3	2	1	0	
<b><i>Integration of environment into sectoral policies</i></b>					
(1) Is environmental requirements' (policy's) integration into other policy spheres set legally as compulsory?			1		The Constitution and the Law of the RB on Environment Protection provide for incorporation of environmental requirements in all the areas but there no separate document on "integration of requirements".
If not, then is such a decision at the preparatory stage now?	-	-	-	-	
(2) Strategies, plans, and programmes: has a common policy been adopted?				0	The Document Main Directions of Environmental Policy of the RB by 2025 have been under development but was not adopted in the end.
<b><i>Preparation of the National Strategy</i></b>					
(3) Has the national sustainable development strategy been adopted since the signing of the Action Plan?		2			The National Strategy of Sustainable Socio-Economic Development has been adopted (adoption is not related to the Action Plan, since Belarus has no such Plan).
If no, then is such a strategy at the preparatory stage now?	-	-	-	-	The new NSDS edition was developed in 2010 but was not adopted.
(4) Was the national environmental policy strategy adopted from the moment of the Action Plan signature?				0	The Document "Main Directions of Environmental Policy of Belarus by 2025" developed by the Ministry of Environment has been adopted solely by the Collegium of the Ministry as of now. It is not adopted at the state level. Quality of the Document is very low. Comment from the public had been received by have not been taken into account in the

					current version of the document.
(5) If not, then is such a strategy at the preparatory stage now?			1		See the previous question. The document is of a poor quality and proposals of the public have not been taken to account.
<b><i>Interdepartmental governance bodies</i></b>					
(6) Has the National Sustainable Development Council (NSDC) been created in the country?				0	No, it is not created. The Commission has been created but as of now it is disembodied.
Are the representatives of nine major society groups represented in it?	-	-	-	-	-
Are the representatives of environmental NGOs represented in it?	-	-	-	-	-
(7) Are the activities of the NSDC transparent and are they properly communicated?			1		Activities are transparent but intensity of communications is very low.
(8) Does the NSDC consider issues related to integration of environmental policy?				0	The NSDS is oriented at socio-economic development (that is reflected in the very name of Belorussian version of the document). Integration of economic policy into the document takes place only by means of several non-specific and non-systemized references.
(9) Were the general committees created or other measures taken towards integration of environment into the sectoral policy?				0	
<b><i>Some instruments of the environmental policy integration</i></b>					
(10) Has legislation on the obligatory carrying out of the EIA (SEA) in relation to policies, strategies, plans, and programmes been adopted?			1		The Strategy and plans are subject to state environmental expertise. The SEA Protocol is not ratified as of now, even though works on training of the SEA experts take place in the country. The Council of Ministers also has approved the Public Environmental Expertise procedure. The only precedent of the PEE



					application is related to the NPP Project.
If yes, then are there positive practices of the EIA (SEA) carrying out?	-	-	-	-	The question is not appropriate. How we can evaluate “positive impact” of practices? The RB has not joined SEA but there were several pilot assessments.
(11) If not, then is such legislation at the preparatory stage now?	-	-	1	-	See above.
(12) Is the law on environmental audit adopted?			1		Issues of environmental audit are regulated by art. 97 of the Law of Republic of Belarus on Environment Protection and by the Decree of the Ministry of Environment Protection and Natural Resources of March 27, 2006 No. 19 on Certain Issues of Environmental Audit.
(13) If not, then is such a law at the preparatory stage now?				0	
Have new economic instruments been established to stimulate more efficient environmental management on enterprises since signing of the Action Plan? If yes, provide an example in the Notes.	-	-	-	-	The question is not relevant. There is no Action Plan in Belarus.
<b>Process</b>					
(14) Did ministries in different sectors play an active role in preparation of the SD strategy?			1		The Ministry of Economy has been the major developer of all the NSDS editions.
(15) Did representatives of civil society play an active role in different sectors (environmental NGOs, manufacturing industry, others)?			1		Representatives of the SA played an active role only in elements related to environment. Some of the propositions have been adopted in the current edition of the NSDS.
(16) Have the text proposals of the public been taken into account in the final document?			1		See above.
(17) Did Ministries play an active role in preparation of the environmental policy strategy in different sectors?				0	The Draft Document “Main Directions of Environmental Policy of the RB by 2025” had been

					developed by the Ministry of Environment and organizations which are subordinate to the Ministry of Environment.
(18) Did representatives of civil society in different sectors (environmental NGOs, industry, others) play an active role?		2			The Document had been discussed by the Public Consultation Council under the Ministry of Environment. The public had submitted its proposition on improvement of the Document.
(19) Have the text proposals of the public been taken into account in the final document?				0	Propositions have not been taken into account.
<b>Implementation</b>					
(20) If the SD strategy was adopted, then have steps been taken to implement its actions?		2			
If the environmental policy strategy was adopted, then have the steps been taken to implement its actions?	-	-	-	-	
<b>Country-specific questions</b>					
<b>Overall assessment:</b> Score from 0 to ... (3x number of questions)		6	9		<b>15 of 60</b>
Per cent					<b>25%</b>

### Conclusion:

The Belorussian version of the NSDS is named “The National Strategy of Sustainable Socio-Economic Development” that reflects reducing of the environmental component in its contents. However, there is a positive experience of environmental public participation in the development of the current version. This provides for foundations to expect that opinion of the public will be taken into account during the development of the new edition (the process of its development was suspended in 2009). Participation of the public is in direct correlation to the fact whether the NSDS development is a part of the UNDP.

“The Main Directions of the National Environmental Policy” needs further improvement and formal approval. The public already submitted its propositions related to its objectives, structures, and content. Unfortunately, works on the Document is suspended for indefinite period.

## Objective 5: Reinforcing of structures and procedures to carry out environmental impact assessment (EIA)

Question	Yes			No	Notes
	Excellent	Adequate	Poor		
Grade	3	2	1	0	
<i>General aspects</i>					
(1) Does the existing legislation require EIA for activities likely to have significant impact on natural resources and the environment? If not, is the adoption of such legislation planned?		2			Yes, requires but not for all potentially hazardous activities.
<i>Structures</i>					
(2) Are responsibilities clearly defined and distributed between the national and regional/local governments?	3				Belarus is a unitary state.
(3) Is the capacity of the regulatory authorities sufficient? <sup>10</sup>			1		Overregulation and, is observed in Belarus and the state authorities have too many powers.
<i>Procedures</i>					
(4) Are criteria and procedure for defining which activities are subject to EIA clearly established?		2			The national lists of criteria poorly correlate to the lists in the international agreements.
(5) Does the procedure in place provide for a preliminary screening stage to decide if an EIA is required for the proposed project?			1		Inappropriate question! Screening (inadequate term in this context!) on the side of whom? The EIA is held by the initiator of activities considering the national legislation.
(6) Does the procedure in place provide for a scoping stage to identify the potential significant impact and main alternatives to assess?			1		Impact should be indicated by initiator of activities. The alternatives are usually not indicated in the EIA Report in Belarus.
(7) Is the information to be provided by the developer in the EIA clearly established		2			The list is set forth in the national legislation.

<sup>10</sup>This question is rather subjective benchmark, although it is important as without sufficient capacity, legal requirements can hardly be implemented and enforced. It relates mainly to the number and the degree of qualifications of people in charge of reviewing EIA at the national and regional level

e.g. through setting the minimum content of the EIA?					
(8) Are consultation procedures with authorities likely to be concerned by the project in place and well applied?		2			The whole process is controlled by the state authorities.
(9) Does the legislation clearly require the relevant country authorities and stakeholders to be informed in the case of probable trans-boundary impacts?		2			Inappropriate question! Clearly require or clearly inform? Yes, the legislation requires to inform but under mediation of the MFA.
(10) Does the legislation clearly require consultations with the relevant country authorities and stakeholders in case of probable trans-boundary impacts?		2			Inappropriate question! Clearly require or clearly make consultations? Yes, the legislation requires consultations but with the state authorities only.
(11) Are clear procedures in place to ensure effective information for the public early stages on in the process?				0	The general public is mostly not informed at the early stages.
(12) Is the public concerned given early and effective opportunities to participate in decision-making environmental procedures?				0	No. The typical answer of state authorities is “Decision on construction is not made”.
(13) Are the results of the consultations with the public and relevant environmental authorities taken into account in the decision-making process?			1		Often they are «taken into account”, but opinion is not considered.
(14) Is the competent authority required to inform the public of the decision to grant or refuse to provide consent on implementation of the project?				0	It is difficult to find such information.
(15) Is the competent authority required to inform countries consulted in case of trans-boundary impact of the decision to grant or refuse development to the developer?			1		There is indirectly prescribed responsibility.
(16) Are the exceptions to information rights, e. g. related, for example, to				0	Highly unclear criteria.

commercial confidentially clearly set out?					
(17) Can the state authority which takes a decision on consent on implementation of the project to impose additional requirements in relation to positive decision?		2			Often the following decision is adopted: “Yes, but under condition of improvements”.
(18) Is a public right of appeal against the decision clearly set up and in place?			1		Inappropriate question! Appeal to what decision? Technically, it is possible to appeal only the SEE decision.
(19) Does the EIA procedure include a follow-up requirement concerning the post-project analysis? If yes, is it well applied?				0	The term “post-project analysis” is not in use in Belarus.
<b>Implementation of the Espoo Convention</b>					
(20) Did the country ratify this multilateral environmental agreement?	3				Approved by the Decree of the President on November 2005.
(21) Was the legislation adopted or changed in order to implement requirements of the international agreement?		2			To a great extent yes.
(22) If yes, then does this reflect obligations foreseen by the agreement properly?		2			To a great extent yes.
(23) Were the other measures taken in order to implement the international agreement?			1		Inappropriate question! It is unclear what steps we are talking about? Some steps were taken.
(24) Does the system of reporting on results of implementation of the international agreement exist in the country?			1		The centre for monitoring of implementation of international agreements.
(25) If yes, then did the country already report on results of the agreement implementation?			1		There were unofficial reports and reports inside the country.
(26) Was the country recognized as the country not following the international agreement?	3				The cases of Belarus were not reviewed by the Compliance Committee, now Lithuania has lodged the official compliance.
<b>Implementation of the Protocol on Strategic Environmental Assessment (SEA)</b>					
Did the country ratify this				0	There was no fact of

multilateral environmental agreement?					signature.
Was the legislation adopted or changed in order to implement requirements of the international agreement?					The question is not relevant
If yes, then does this reflect obligations foreseen by the agreement properly?					The question is not relevant
Were the other measures taken in order to implement the international agreement?					The question is not relevant
Does the system of reporting on results of implementation of the international agreement exist in the country?					The question is not relevant
If yes, then did the country already report on results of the agreement implementation?					The question is not relevant
Was the country recognized as the country not following the international agreement?					The question is not relevant
<b><i>Country-specific questions</i></b>					
<b>Overall assessment:</b> Score from 0 to ... (3x number of questions)	9	18	9		<b>36 (of 78 available)</b>
Per cent					<b>46.1%</b>

### **Comments and explanations:**

Fulfilment of the international commitments in concern is characterized by determination of the state authorities to minimize both direct effect of the international regulations inside the country and necessity for and scope of implementation of international regulations into the national legislation. The list of dangerous objects was implemented into the national legislation highly modified without significant reasons for that.

Procedures of participation of the general public in the national legislation are rendered innocuous and minimized.

It is necessary to establish the procedure of participation of the general public in decision making not just under the “what to build” parameter but also under the “where to build” parameter when this is related to environmental sensitivity of territories, e.g. green zones of settlements.

It is necessary to spell out the procedure of provision of information to citizens at the beginning of the public hearings procedure in more clear and sound manner.

### ***Recommendations:***

It is advised to set forth the obligation of an economic activity initiator include into the EIA report possible alternatives to the planned construction.

It is needed to set forth obligation of provision of the general public with the EIA documentation. The scope of documentation should correspond to the scope in which it was submitted for the State Environmental Expertise (except for information related to state secret or commercial confidentiality).

It is critical to charge the state authorities and initiator of activities with responsibility to engage the public into the process at the early stage.

It is desirable to enhance the legal status of conclusion of the community environmental expertise.

It is necessary to sign and approve the international documents related to SEA.

## Objective 6: Improving access to information and public participation

Question	Yes			No	Notes
	Excellent	Adequate	Poor		
Grade	3	2	1	0	
<b>Implementation of Aarhus Convention</b>					
(1) Has the country ratified this multilateral environmental agreement?	3				
(2) Was the legislation adopted or changed in order to implement requirements of the international agreement?			1		
(3) If yes, then does this properly reflect obligations foreseen by the agreement?			1		
(4) Were the other measures taken in order to implement the international agreement?			1		The Aarhus Centre has been created within the Ministry of Environment (is not an independent institution).
(5) Does the reporting system on results of implementation of the international agreement exist in the country?		2			The volume of time provided for consultations with the public in relation to the Report on Implementation of the Convention is insufficient. However, it is important to mention that remarks of the public were taken into account in the last country report. This made the Report quite objective.
(6) If yes, then did the country already report on results of the convention's implementation?		2			Yes, the country reported each time but with a delay.
(7) Was the country recognized as the country not following the international agreement?	3				There are 2 decisions of the committee on noncompliance of the country with several provisions of the Convention.
<b>Implementation of the PRTR Protocol</b>					
(8) Has the country ratified this multilateral environmental agreement?				0	Protocol is not adopted.



Was the legislation adopted or changed in order to implement requirements of the international agreement?	-	-	-	-	
If yes, then does this properly reflect obligations foreseen by the agreement	-	-	-	-	
(9) Were the other measures taken in order to implement the international agreement?		2			The list of objects which are significant sources of pollutions and information on which has to be entered into the database was developed, same as the list of indicators included to the National Pollution Release and Transfer Register and their threshold in accordance to the PRTR Protocol.
(10) Does the reporting system on results of implementation of the international agreement exist in the country?				0	
If yes, then did the country already report on results of the agreement implementation?	-	-	-	-	
Was the country recognized as the country not following the international agreement?	-	-	-	-	
<b><i>Access to environmental information</i></b>					
(11) Are there satisfactory administrative systems in place for prompt responses to requests for information from the general public?	3				
(12) Are there satisfactory guidelines available on information held by the state authorities and how to request access to such information?		2			
(13) Are there well-established channels of the environmental information publication in the country (for example, laws, case-law, decisions of executive authorities and etc.)?		2			

(14) Is access to information free of charge <sup>11</sup> or inexpensive <sup>12</sup> ?	3				
(15) Is there a secure data management system to handle commercially sensitive information and personal data in the country?			1		
(16) Are there clear guidelines for authorities on how to apply commercial confidentiality requirements, including on information disclosure due to public interest?			1		
<b>Participation of the public</b>					
(17) Are there procedures for enabling public participation in decision making in place, e. g. have clear procedures been established for submitting of written comments or comments at hearings and for the notification of decisions?			1		Just for decision made by the Ministry of Environment.  Participation of other state authorities in decision making is extremely complicated.
(18) If yes, then are citizens well informed of these procedures?			1		
(19) Have tools been developed to identify the participating public? In particular, if there is an Environmental Impact Assessment procedure in place, does it also involve public participation?		2			
(20) Are the outcomes of public participation procedures taken into account in an appropriate manner? Does public input have a tangible influence on the actual content of the decisions?			1		Real impact is very rear.
(21) Have incentives been developed to allow applicants to engage in early dialogue with public?				0	The most pressing issue: consultations are always carried out at the late stages when it is difficult to introduce changes.
<b>Access to Justice</b>					
(22) Does the country provide for independent and impartial review bodies, including courts?				0	Courts are biased and are on the side of the state

<sup>11</sup>If yes, then the answer has to be “yes” – “excellent”.

<sup>12</sup>If yes, then the answer has to be “yes” – “good” or “yes” – “satisfactory” depending whether the access still remains simple despite payment or if there exist barriers to access.

(23) Have clear rules been developed in relation to the right of individuals and the NGOs to access judicial and other reviews for violations of the Convention and for violations of national environmental legislation?				0	
(24) Is the mechanism to suspend execution of a decision, which is dangerous for environment developed (e. g. preliminary injunction for the period of decision appeal)?				0	
(25) Have the mechanisms been established to provide the public with information on access to justice procedures?				0	
(26) Have assistance mechanisms been developed for the public in accessing to the procedures, for example, financial support to pay for lawyer's services if necessary?				0	
(27) Is there a time limit set by national legislation between the beginning of an appeal and a legal decision? If not, is the average of such a procedure acceptable?				0	
<b>Country –specific questions</b>					
<b>Overall assessment:</b> Score of 0 to ... (3x number of questions)	9	12	7		<b>28 of 81</b>
Per cent					<b>34.5%</b>

### Comments and clarifications:

In practice the courts are not independent from the executive bodies. Environmental and administrative courts are absent.

National agency on execution of Aarhus convention is the Ministry of Environment. If the decisions, that are important from environmental point of view, are taken by other state bodies, community has practically no possibility to participate in their adoption.

Public participation in early stages is not previewed. Even on the level of the Ministry of Environment in most cases public is attracted on final stage.

The courts are not disposed towards using norms of Aarhus convention directly and use the norms of particularly Belarusian legislation instead.

The claims of public unions on environmental issues are mistakenly treated as “commercial” and are redirected to Commercial Court.

The claims in favour of “common good” are impossible.

**Recommendations:**

It is necessary to oblige all the state bodies to execute Aarhus convention and to collaborate with public.

The public participation in adoption decision process of other Ministries and executive bodies must be assured in its early stage (before project concordance with all the stakeholders).

The access to justice on environmental issues must be provided through general courts or environmental courts should be created. Possibility to appeal legal texts should be introduced.

## Objective 7: Cooperation on development of the Shared Environmental Information System (SEIS)

Question	Yes			No	Notes
	Excellent	Adequate	Poor		
Grade	3	2	1	0	
<i>Implementation of the SEIS Project</i>					
(1) Did experts of SEIS project make country visit to identify priorities and plan of activities?			1		There were visits to the country. Informing of the public on results was at extremely low level.
If not, is it planned to organise such a visit in the nearest future?	-	-	-	-	
(2) If yes, then were representatives of the public invited to such a meeting?				0	Engagement of the public into the SEIS Project activities is extremely low: representatives of the major environmental NGOs have almost no information on existence of the Project in Belarus.
(3) Is a person responsible for implementation of the project in the country appointed in the Ministry/another authority?		2			Yes, 2 responsible persons are appointed.
(4) Does the public know the appointed responsible person?			1		The information was found but it took very long time.
(5) Is the information on the project available on the website of the responsible authority/Ministry?				0	No. Search for information on implementation of the Project in Belarus is significantly complicated: just web-search provides almost no essential information on the Project. The information has been found only on the websites of European implementing authorities.
(6) Was the action plan for the country adopted or is it in the process of development?			1		The Action Plan has not been adopted. Agreements in relation to its development had been reached.

Do the priorities in the plan correspond to the ones proposed by the public?	-	-	-	-	The public is not engaged into activities of the Project.
(7) Has the interdepartmental authority on coordination within the framework of the project at the country level been created or is coordination assigned to already existing interdepartmental authority of environmental monitoring? (specify in the Notes)		2			Representatives of different bodies are engaged into activities of the Project. They collect, analyse, and present the information on state of environment.
<b><i>System of collection/provision of environmental information and the public</i></b>					
(8) Does the unified electronic database of environmental data exist in the country?		2			
(9) If yes, then is it available for the public on the Internet?			1		Environmental information is available in the Internet only at the stage of presentation of reports of state authorities on the state of environment. The latest data of observations as of the end 2011 is for 2010.
(10) Does the authority responsible for collection, processing, and provision of environmental information exist in the format, which does not need additional payments and interpretation?			1		The Ministry of Environment, SIAC, NS MEP, and the National Committee of Statistics present information on the state of environment. Significant share of information is presented in a format which is difficult for perception by non-specialists and demands additional interpretation.
(11) Does the national legislative act on regularity of preparation and adoption of the National State Of Environment Report exist? (indicate the national legislative act and frequency in the Notes)			1		Activities on environment monitoring and presentation of reports are executed in accordance with the Law on Environment Protection and Decree of the Council of Ministers on Establishment of the

					National System of Environmental Monitoring in Republic of Belarus.
(12) Does the actual periodicity of issuing of the report comply with requirements of the national legislation?		2			SIAC NS MEP presents the results of observations on the state of environment once a year. The latest data is available for 2010.
(13) B Is it possible to find information on the main indicators for the last 2 years in free access in case, if the report is issued irregularly?				0	The latest available statistical data is for 2010. The data for 2011 are not in free interactive access.
(14) Does the Ministry engage the public to cooperation in collection and/or preparation and/or dissemination of information?				0	The functions are executed exclusively by the Ministry of Environment, SIAC NSMEP, and the National Committee of Statistics.
<b><i>Political will to solve problems of monitoring and information management</i></b>					
(15) Does the Ministry/authorized body openly discuss the problems of the monitoring system and its maintenance?				0	The NSMEP Programme was marked "for official use only" at the stage of development. The access to the Programme has been opened from the moment of its approval.
(16) Are significant funds foreseen in the budget of the country/SEPF for improvement of the technical support of the monitoring system?			1		Budget financing is provided. However, it is insufficient. In addition, rules on procurement of equipment manufactured solely at the territory of the RB makes improvement of the technical base significantly complicated.
(17) Are measures for development of the automated information system and for providing access to this system via Internet foreseen in the Action Plan/budget?				0	The NSMEP website exists but primary data are not available and the public often has access to it blocked.
(18) Is there a decision on approval of indicators of				0	

environmental policy's efficiency (if yes, then what is the status of the document of such a decision)?					
Have those indicators already been used to assess any existing policy?	-	-	-	-	
Has the public been engaged to the works on those indicators?	-	-	-	-	
<i>Country –specific Questions</i>					
<b>Overall assessment :</b> Score of 0 to ... (3x number of questions)		8	7		<b>15 of 54</b>
Per cent					<b>27.7%</b>

**Comments and clarifications:**

The issue of access to environmental information remains in abeyance for Belarus: primary statistical data is unavailable and at the stage of presentation of Reports on the State of Environment the data are often presented in generalized form or need additional interpretation by experts (common individuals having no specific knowledge in the field of environment protection will not be able to interpret the data on pollution of their region of residence correctly). The data also is presented in non-interactive mode and after long period of time that does not allow the public to timely respond to changes in situation.

In addition, implementation of the SEIS Project which is aimed at improvement of situation with access to environmental information takes place with almost no cooperation with representative of the interested public. The information on the Project is very difficult to find that is in full contradiction to objectives and tasks of this Project.



# GEORGIA

## Objective 1: Strengthening cooperation with the European Union

Question	Yes			No	Notes
	Excellent	Adequate	Poor		
Grade	3	2	1	0	
<i>Policy</i>					
(1) Were negotiations on conclusion of the Association Agreement (AA) started or not? If “yes”, specify the date of the beginning of negotiations in Notes.	3				15th of July 2010 the first official negotiations between Georgia and EU on the Association Agreement took place. Currently negotiations on different parts of the Association Agreement are underway.
If “not”, what agreement regulates cooperation of the country with the EU at the present time? (additional question, should not be graded)					
(2) Was the strategic political instrument for implementation of a decision on holding negotiations on the AA adopted? If “yes”, then does it have a legal act status? For example, Agenda of Association ( ), other (specify in Notes).	3				Georgia has signed the Agreement on Cooperation and Partnership with the EU. Besides Georgia has signed EU-Georgia Action Plan under the ENP aegis. EU integration is top priority of Georgia’s domestic and foreign policy. This has been declared in the Parliament Resolution of 28 March 2003 which charges executive bodies with starting negotiations in this regard. In 2005 governmental commission was set up, co-chaired by Ministers of Foreign Affairs and for European Integration. The need for EU and Euro-Atlantic integration is stressed in the National Security Concept, annual governmental documents and Foreign policy document of 2006-2009.
<i>Institutional Aspects</i>					

<p>(3) Does the Ministry of Foreign Affairs have a special unit/department on cooperation with/integration into the EU<sup>13</sup>?</p>	<p>3</p>			<p>Governmental Commission on Georgia's Integration in the EU, headed by Georgian Prime-Minister is set up; State Minister on European and Euro-Atlantic Integration (mean time vice-Premier) and Minister of Foreign Affairs are his two deputies. The Commission includes all the Ministers. There is also inter-agency council composed of representatives of all the ministries. State Minister on European and Euro-Atlantic Integration coordinates implementation of the European Neighbourhood Policy Action Plan. Departments for European Integration and Department for European Issues function within the Ministry of Foreign Affairs.</p>
<p>(4) Have government officials received training on cooperation/integration with the EU?</p>		<p>2</p>		<p>Staffs of the State Minister on European and Euro-Atlantic Integration office, as well as representatives of other ministries receive trainings on different aspects of European Neighbourhood Policy. Trainings are usually organized by different European institutions as well as by member states' governments under different projects and programs.</p>
<p>(5) Does the government provide the public with information on cooperation policy and on activities with the EU?</p>			<p>1</p>	<p>There is a website of the Office of State Minister on European and Euro-Atlantic Integration, where the information on the office activities can be found; Twice a year Georgian government holds high level meetings to discuss the progress in implementation</p>

<sup>13</sup>Evaluation is based on the value expert judgment of the efficiency level of authorities of this unit.

					of the Action Plan. These meetings are, in principle, open for NGOs. The minister of EU integration since 2011 regularly meets EaP national platform members.
(6) Does the government monitor regularly and officially implementation of the AofA/ another Action Plan?			1		Georgian government presents reports on Action Plan implementation to European Commission twice in a year; However, in the absence of a specific time frame and indicators, these reports are ineffective; Often the ministries' provided information that is outdated and /or misleading.
<b><i>Cooperation in the field of the environment</i></b>					
(7) If a policy instrument has been adopted for the AA preparation (like AofA)/Action Plan implementation, does it describe any specific actions and deadlines for achieving environmental objectives?			1		The policy instrument for implementation of Georgia EU Action plan has not been adopted. Georgian Ministry for Environmental Protection and Natural Resources, as other ministries, drafts annual action plan and presents it to State Minister on European and Euro-Atlantic Integration. The deadlines and specific actions mainly depend on the programs and projects of donors.
(8) Do legislative programming instruments provide for the adoption of the legislation necessary for the implementation of the environmental objectives of the AA/Action Plan?				0	The EU Georgia Action plan 2007-2013 provided ground for adoption of legal documents in certain areas, including ratification of UN ECE conventions, since no objective could have been achieved otherwise. However there is no strategy and/or work plan in place, which would set deadlines and ensure the adoption and implementation of legislative initiatives along the Action Plan requirements.
(9) Are annual priorities/action plans on the AofA implementation being approved in the form of regulatory act?				0	No

(10) Were the consultations with the NGOs held on contents of the AofA environmental chapter?			1		The consultations with NGOs do not take place regarding the environmental chapter of Association Agreement neither from Governmental neither from EC side.
<b><i>Country-specific questions</i></b>					
<b>Overall assessment:</b> Score from 0 to ... (3x number of questions)	9	2	4		<b>15 (with 30)</b>
Per cent					<b>50.0%</b>

**Comments, Explanations,, Conclusions:**

The convergence of environmental legislation is set by the Partnership and Cooperation Agreement, as well as EU-Georgia Action plan. The convergence of horizontal environmental legislation will be central in environmental chapter of Association Agreement, negotiated by EU and Georgia. The key problems identified include lack of comprehensive and independent analysis of the current statues of convergence in the field of environmental protection, non–existence of public participation mechanisms. It should be stressed that the level of understanding the process, as well as Environmental *aquis* itself, among the state authorities, as well as CSOs and other related stakeholder is limited; In addition there is no cooperation or even constant communication between main stakeholders regarding the convergence process and no roadmaps on specific issues and priorities to steer the convergence process in environmental protection area.

## Objective 2: Strengthening of administrative structures and procedures

Question	Yes			No	Notes
	Excellent	Adequate	Poor		
Grade	3	2	1	0	
<b>Administrative structures</b>					
<i>At the national level</i>					
(1) Is the Ministry of Environment Protection (EP) established in the country? If yes, do its authorities include all the major environmental issues in the country (e. g. water, wastes, air, biodiversity, etc.)? (Specify the precise name of the Ministry in Notes)			1		Ministry of Environmental Protection (formerly Ministry of Environmental Protection and Natural Recourses – was renamed after Spring 2011 institutional reform) carries responsibility for all environmental issues; however, there are issues, where the Ministry shares responsibility with other ministries (e.g. Ministry of Health, Ministry of Energy and Natural Resources, Ministry of Agriculture, Ministry of Economy and Sustainable Development, Ministry of Interior) and/or with local authorities. Distribution of responsibilities between these institutions is not always clear; besides, there are areas (e.g. certain aspects of waste management, genetically modified organisms, invasive species) which do not fall under any agency's responsibility.
(2) Are other bodies responsible for the EP issues established? (list in the Notes)			1		Please, see above.
(3) Are they subordinate bodies of the Ministry? (Summarize the subordination level in the Notes)				0	
(4) Do they duplicate functions of the Ministry?			1		
(5) Has the State EP Fund been created in the country?				0	There is no such state fund in Georgia. The financial resources for environmental actions are allocated routinely in the process of state budgetary planning
(6) Have its financial				0	In 2007-2009 the funding of

resources been increased during the last five years? (specify dynamics of funds for 2007-2009 in the Notes)					Ministry of Environmental Protection and Natural Resources from the state budget was increasing gradually; however, its share in GDP reduced from 0.2% to 0.1% (the government's mid-term strategy for 2007-2010). After reorganization of the Ministry in 2011 the state funding has decreased dramatically.
If increased, then was such increase related to indexation of rates of the environmental charges? (in what year did it take place?)					The question is not relevant for Georgia.
If yes, was it related to improvement of control of the enterprises' activities?					The question is not relevant for Georgia
Is consolidation and prioritization of the SEPF (State Environmental Protection Fund) targeted financing to solve the acute environmental problems observed?					The question is not relevant for Georgia
(7) Is the State Environmental Inspection established in the country?			1		Inspectorate for Environmental Protection was a structural unit within Ministry of Environmental Protection and Natural Resources until spring 2011 institutional reforms. In Spring 2011 it was abolished and two new units entrusted with environmental enforcement power were established within 'reorganized' and renamed ministries – Ministry of Environmental Protection and Ministry of Energy and Natural Resources. There are overlaps in the functions of those two newly established units of the ministries.
(8) Is it an independent authority within the EP system?				0	
<i>At the regional/local level</i>					

(9) Does the structure of the Ministry include its territorial branches? (if yes, specify the administrative coverage in the Notes, for example oblast level branches)				0	
(10) Does the State Environmental Inspection have its territorial offices? (if yes, specify the administrative coverage in the Notes, for example district-oblast-region level branches)				0	
(11) Do regional/local authorities have authority in the field of environment protection? Is there clear division of competence between the national and regional/local authorities?			1		In general Georgian legislation recognizes subsidiary principle with regard to distribution of functions related to environmental protection and natural resources management. However, this principle has never been applied in practice. The Law on Local Self-Governance confers certain powers on them to deal with environmental issues, but the provisions of the law are very general and rather declarative, the same as media-specific environmental legislation. At present all decision-making power is concentrated at Ministry of Environmental Protection and Ministry of Energy and Natural Resources (sometimes coordinated with other agencies; see above).
(12) Is the SEPF distributed to the oblast/local level? (if yes, specify then levels, shares of the national-oblast-local level, and also spending units)				0	
<b><i>Strategic planning</i></b>					
(13) Is there an environment protection strategy in place or planned to be adopted? If yes, then is it of a good				0	No strategy for the environment is in place or planned. Strategy developing commitments are not provided in the Georgian legislation.

quality?				<p>Article 15 of the framework Law on Environment Protection of 1996 provides for basic elements of environmental planning system. These are: country's sustainable development strategy, national (5 years) environmental action program, regional, sectoral and local environmental programs and environmental management plans for facilities. Such planning system does not imply developing strategy for the environment.</p> <p>It should be noted also that even the existing provision in the framework law (article 15) has not been so far translated into the specific regulations for environmental planning, thus leaving any attempt of planning for environmental protection at the discretion of initiator.</p> <p>For instance, in July 2009 Ministry of Environmental Protection and Natural Resources held a meeting for donor community and selected NGOs, to present the Ministry's strategy and action plan for 2009-2013. It is important to note that the documents were presented as "the country's priorities for the environment during next 5 years" and not as the priorities of one particular agency; the strategy and the plan had not been publicly discussed neither before nor after the meeting (though several disputable issues arose during the presentation); the Ministry itself never reverted to these documents (monitoring, reporting, etc.) and they have never been adopted officially.</p>
Are the tasks of				The question is not relevant for



institutional strengthening of the EP management system included into the strategy?					Georgia
Have steps been taken to implement the strategy?					The question is not relevant for Georgia
Is the strategy being revised regularly (e. g. once in 5 years?)					The question is not relevant for Georgia
(14) Are there sector-specific strategies to support the overall strategy?				0	
(15) Are there procedures, such as consultations between the ministries/authorities in place?				0	
(16) If yes, is the role of the Ministry of Environment and other environmental authorities to coordinate within these procedures?				0	
(17) Are there formal procedures to facilitate coordination between the authorities and other relevant actors (civil society, scientific community)?				0	
(18) Has cooperation between different stakeholders improved from the moment of the beginning of negotiations on the AA?			1		
<b>Country-specific questions</b>					
<b>Overall assessment:</b> Score from 0 to 57 (3x number of questions)			6		<b>6 (from 54)</b>
Per cent					<b>11.1%</b>

### Comments and explanations:

Environmental institutions have existed in Georgia for years, but there is no political will in the country to confer real powers on them. This entails a neglect of environmental concerns when making important decisions. Recent years could in short be characterized as follows: very high rate of turnover of management of Ministry of Environmental Protection [and Natural Resources]; endless structural changes without prior efficiency study of previous changes; dismissal of the old staff and recruitment of new, mostly incompetent and inexperienced personnel; lack of responsibility or commitment to the decisions of previous management at all levels – starting from the Minister and

ending with average civil servants that in addition do not have any motivation to improve performance.

The situation is exacerbated by frequent structural changes of executive authorities resulting either in creation of a new agency, abolition of the old one or just changing the title of the existing agency. The fact, that these changes are not part of long-term (at least 5 years) strategy, publicly declared and known to the agency “under reform”, is also a matter of concern. The expectation for “reforms” usually becomes more stressful after the President publicly (on TV) scolds the management of one or another agency. Fear of the reforms and uncertainty about the future practically paralyze the agency and causes inaction, slow decision-making and reluctance to carry out routine responsibilities.

### Objective 3: Development of strategies, plans, and programmes in the environment protection field

Question	Yes			No	Notes
	Excellent	Adequate	Poor		
Grade	3	2	1	0	
<b>Preparation and adoption</b>					
(1) Have relevant strategies, plans, and programmes been prepared from the moment of the Action Plan adoption?			1		Several plans and programmes (Second National Environmental Action Programme, National strategy and action plan for protected areas' system, National Action Plan on Persistent Organic Pollutants, Integrated Coastal Zone Management Strategy ) were developed during 2007-2011 in Georgia however none of them are used as guiding documents in respective areas; either any of them were formally adopted.
(2) Have these strategies, plans or programmes been officially adopted at the level of Parliament/Government?				0	None of them were officially adopted.
<b>Process</b>					
(3) Did the ministries play the active role in preparation of strategies, plans or programmes in different sectors, e. g. transport, industry, energy, healthcare? Does the Ministry of Environment play the leading role in their development?			1		The process of developing of all the above mentioned strategies, programs and plans was led by Ministry of Environmental Protection and National Resources, with the assistance of external experts and the donors' financial support. To date Georgian legislation does not provide for the procedures for developing and adopting national, regional and/or sectoral strategies, plans and programs. In general, no legislation to regulate the planning is in place. There is certain practice of circulating draft strategies/programs/plans among different authorities occasionally followed by consultative meetings. Hereby it should be mentioned that the interest to such documents is usually not very high, because they are almost never approved

					(permanently postponed, rather) and even if they are approved, are seldom implemented. This happens due to uncertainty with regard to their legal status and their place in the budgetary system. Lack of interest on the side of public authorities and other stakeholders may also be attributed to low sense of ownership at the ministries responsible for developing such documents.
(4) Did the local and regional authorities play the active role in preparation of strategies, plans, and programmes?				0	The practice of involvement in developing strategies, programs and plans does not always apply to local governments. Local governments are seldom invited to participate in preparatory processes, neither are they asked the opinion.
(5) Did civil society play an active role in different sectors (environmental NGOs, business & industry, others)?				1	In general, different stakeholders play some role, but their participation is rather sporadic. This is largely due to absence of public participation procedures.
<b>Content</b>					
(6) Do newly prepared strategies/plans contain elements of approximation to the EU environmental policy?				0	
(7) Do plans and programmes clearly define division of responsibility for their implementation?				1	Seldom. Even if they do, it would be difficult to understand how binding are the obligations provided in the plans and documents due to uncertainty of their legal status.
(8) Do the plans and programmes contain clear and realistic financial plan, which define resources, requirements, and ways of implementation?				1	Seldom. If they include financial plans, then these plans are more focused on donors' support than mobilizing budgetary resources.
(9) Do the strategies, plans, and programs define priorities in actions?				1	They do, in some cases.
(10) Do strategies, plans and programs (SPP) contain measurable				0	

targets?					
(11) Do SPP contain indicators?				0	
(12) Do the strategies, plans, and programmes foresee monitoring, evaluation and reporting mechanisms?				0	
<b>Implementation</b>					
Have any steps been taken to implement the strategies, plans and programmes?					The question is not relevant for Georgia.
<b>Country-specific questions</b>					
<b>Overall assessment:</b> Score from 0 to 36 (3x number of questions)			6		<b>6 (from 36)</b>
Per cent					<b>16.7%</b>

#### **Comments and explanations:**

As is evident from the above information, plans and programs have been developed in certain areas for recent years. Though, it remains unclear, what their role in overall national planning system would be, partly because these plans and programs are never formally approved/endorsed; the same explanation can be applied to lack of the sense of ownership among the authorities, who are supposed to use plans or programs as a guideline in their activities. Lack of the sense of ownership in different public institutions, on its side, causes lack of public interest to the documents in the process of preparation. As a result limited, but still the opportunity of public participation in the decision-making is lost. Frequent change of governmental priorities, as well as changes of leadership in the authorities also results in lack of a sense of ownership.

Public and/or interested parties' involvement in the development of plans and programs remains problematic. Transparency and participation are ensured, to certain extent, only when programs are developed with the support of donors or international organizations. Though Georgia joined Aarhus Convention already in 2001 and it takes precedent validity with respect to national regulatory documents, transposition of its provisions into national legislation never took place. Accordingly, due to absence of specific procedures on access to information and participation in the decision-making, the requirements of Article 7 - public participation, concerning plans, programs and policies relating to the environment - cannot be fulfilled.

#### **Recommendations:**

The situation could be partly improved by passing the law on environmental planning. Developing and passing of this law should have taken place immediately after the adoption of framework-law on Environment Protection in 1996; one of the articles of the latter sets out general norms of environmental planning, which should have been further itemized in the specific law.



**Objective 4: Ensuring integration of environmental aspects into other policy sectors (promoting sustainable development)**

Question	Yes			No	Notes
	Excellent	Adequate	Poor		
Grade	3	2	1	0	
<i>Integration of environment into sectoral policies</i>					
(1) Is environmental requirements' (policy's) integration into other policy spheres set legally as compulsory?				0	No, there are no such requirements in the legislation
If not, then is such a decision at the preparatory stage now?				0	
(2) Strategies, plans, and programmes: has a common policy been adopted?			1		Joint policies have not been developed so far, however, there was an attempt to integrate environment into sectoral policies when developing State Strategy for Regional Development of Georgia for 2010-2017 (approved on 25 June 2010). The strategy, among other issues, provides for priorities, such as improvement of municipal waste management, sustainable management of water, land and forest resources. Representatives of Ministry of Environmental Protection, as well as other stakeholder groups were included in governmental commission and working groups that worked on diagnostic report for the strategy.
<i>Preparation of the National Strategy</i>					
(3) Has the national sustainable development strategy been adopted since the signing of the Action Plan?				0	
(4) If no, then is such a strategy at the preparatory stage now?				0	In 2005 governmental commission on sustainable development, chaired by the Prime Minister was set up. The committee exists nominally; no activities to develop the strategy are in place. In July 2010 Ministry for

					Economic development changed the title into “Ministry for Economy and Sustainable Development”. In October 2010 amendments were introduced into the Ministry’s regulatory statute by which new department was established within the ministry – “Department for Sustainable Development”. One of its functions is “to develop sustainable development strategy and action program”. So far the ministry has not taken any step for preparation of such strategy.
(5) Was the national environmental policy strategy adopted from the moment of the Action Plan signature?				0	
(6) If not, then is such a strategy at the preparatory stage now?				0	
<b><i>Interdepartmental governance bodies</i></b>					
(7) Has the National Sustainable Development Council (NSDC) been created in the country?	3				In 2005 governmental commission on sustainable development, chaired by the Prime Minister was set up. The committee exists nominally.
(8) Are the representatives of nine major society groups represented in it?				0	No, commission comprises of ministers only.
(9) Are the representatives of environmental NGOs represented in it?				0	
(10) Are the activities of the NSDC transparent and are they properly communicated?				0	
(11) Does the NSDC consider issues related to integration of environmental policy?				0	
(12) Were the general committees created or other measures taken towards integration of environment into the sectoral policy?				0	
<b><i>Some instruments of the environmental policy integration</i></b>					



(13) Has legislation on the obligatory carrying out of the EIA (SEA) in relation to policies, strategies, plans, and programmes been adopted?				0	There were provisions in EIA legislation which obliged developers to carry out an EIA for certain types of plans and programmes, however these provisions were annulled as a result of reforms in licensing and permitting systems during 2005-2006.
(14) If yes, then are there positive practices of the EIA (SEA) carrying out?					The question is not relevant for Georgia.
(15) If not, then is such legislation at the preparatory stage now?				0	In 2005 there was an attempt to introduce SEA in Georgia but the initiative has failed.
(16) Is the law on environmental audit adopted?				0	
(17) If not, then is such a law at the preparatory stage now?				0	
(18) Have new economic instruments been established to stimulate more efficient environmental management on enterprises since signing of the Action Plan? If yes, provide an example in the Notes.				0	No; even existing ones were abolished (for instance, pollution tax).
<b>Process</b>					
Did ministries in different sectors play an active role in preparation of the SD strategy?					The question is not relevant for Georgia.
Did representatives of civil society play an active role in different sectors (environmental NGOs, manufacturing industry, others)?					The question is not relevant for Georgia.
Did Ministries play an active role in preparation of the environmental policy strategy in different sectors?					The question is not relevant for Georgia.
Did representatives of civil society in different sectors (environmental NGOs, industry, others) play an active role?					The question is not relevant for Georgia.

Have the text proposals of the public been taken into account in the final document?					The question is not relevant for Georgia.
<b>Implementation</b>					
If the SD strategy was adopted, then have steps been taken to implement its actions?					The question is not relevant for Georgia.
If the environmental policy strategy was adopted, then have the steps been taken to implement its actions?					The question is not relevant for Georgia.
<b>Country-specific questions</b>					
<b>Overall assessment:</b> Score from 0 to 54 (3x number of questions)	3		1		<b>4 (from 54)</b>
Per cent					<b>7.4%</b>

#### Comments and explanations:

As mentioned above the attempt was made to integrate the environment into development strategy in the process of development of State Strategy for Regional Development of Georgia for 2010-2017. It should be mentioned that diagnostic report (based on which the strategy was developed) was being prepared with wide involvement of different stakeholders but this was not the case with the strategy and especially with the action plan prepared by Ministry for Regional Development and Infrastructure. Action plan was not publicly accessible.

As for the “new-born” Ministry for Economy and Sustainable Development (ministry was renamed as new minister had been appointed), its plans in terms of supporting sustainable development are not clear so far, except for adding above mentioned new department with Ministry and the Minister’s public statement of 30 December 2010 that the implementation of “Green Georgia” project would start in 2011. The project, according to minister, envisages the import of electronic vehicles to Georgia and promotion of alternative energy sources. So far there is no progress in this direction either.

## Objective 5: Reinforcing of structures and procedures to carry out environmental impact assessment (EIA)

Question	Yes			No	Notes
	Excellent	Adequate	Poor		
Grade	3	2	1	0	
<i>General aspects</i>					
(1) Does the existing legislation require EIA for activities likely to have significant impact on natural resources and the environment? If not, is the adoption of such legislation planned?			1		<p>EIA legislation in Georgia is in force since 1997. It has not undergone major changes until 2005. In 2005, with the introduction of the Law on Licenses and Permits, the EIA system has also changed dramatically (since EIA process is linked to permitting).</p> <p>As of today, the following issues in the EIA legislation are considered to be problematic:</p> <p>(a) The current EIA legislation requires certain activities to be subject to EIA before approval, i.e. before granting the Permit for the Impact on the Environment. However, criteria for selection of activities is not clear; it is not clear at all if activities that are subject to EIA have at all impact on environment and human health or not, to say nothing of significance of the impact. Strangely, the law simply lists the activities that are subject to State Environmental Expertise, i.e. reviewing EIA reports submitted by project developers.</p> <p>(b) the law gives exhaustive list of activities subject to EIA; the list does not include such activities/projects as for instance, mining, nuclear power stations, agricultural and food industries, wood, paper, leather and textile industries, certain types of infrastructural projects (these activities used to be subject to EIA till the adoption of the Law on Licenses and Permits in 2005). The current list of activities subject to EIA does not comply with Annex I</p>

					of the Council Directive 85/337/EEC and Annex I of Aarhus Convention. The law also does not include open-ended provision on activities that may be subject to EIA as it is foreseen under the Council Directive 85/337/EEC (Annex II activities). (c) EIA is applicable to private projects/activities listed in the law. Public (state-owned) projects are exempt from EIA, while the majority of the activities listed in the law can in principle be implemented only by the public institutions. Furthermore, The Law on State Support to Investments makes possible for any person to start implementation of activity without conducting EIA and obtaining permit on condition that he/she will fulfil these obligations in the future.
<b>Structures</b>					
(2) Are responsibilities clearly defined and distributed between the national and regional/local governments?					Question in not relevant for Georgia. The regional (Adjara Autonomous Republic) and local governments do not have any role in EIA system (either in decision-making, or in the follow-up). The decisions on granting the permit on the activities defined by the Law on Permit for Impact on the Environment are taken by the Ministry of Environmental Protection exclusively.
(3) Is the capacity of the regulatory authorities sufficient? <sup>14</sup>			1		No, absolutely insufficient.
<b>Procedures</b>					
(4) Are criteria and procedure for defining which activities are subject to EIA clearly established?			1		No, they are not. In many cases activities are listed without thresholds, thus putting excessive burden on the Ministry of Environmental Protection and

<sup>14</sup>This question is rather subjective benchmark, although it is important as without sufficient capacity, legal requirements can hardly be implemented and enforced. It relates mainly to the number and the degree of qualifications of people in charge of reviewing EIA at the national and regional level

					Natural Resources and the developers of small and medium size projects which have no significant environmental impacts.
(5) Does the procedure in place provide for a preliminary screening stage to decide if an EIA is required for the proposed project?				0	No, it does not
(6) Does the procedure in place provide for a scoping stage to identify the potential significant impact and main alternatives to assess?				0	No, it does not
(7) Is the information to be provided by the developer in the EIA clearly established e.g. through setting the minimum content of the EIA?			1		Regulation setting minimum content requirements for EIA was annulled at the end of 2007. It has been reintroduced only on 9 March 2009. It is inferior and not much different from its predecessor.
(8) Are consultation procedures with authorities likely to be concerned by the project in place and well applied?				0	There are no such procedures in place.
(9) Does the legislation clearly require the relevant country authorities and stakeholders to be informed in the case of probable trans-boundary impacts?				0	There are no such requirements.
(10) Does the legislation clearly require consultations with the relevant country authorities and stakeholders in case of probable trans-boundary impacts?				0	There are no such requirements.
(11) Are clear procedures in place to ensure effective information for the public early stages on in the process?				0	There are no such procedures in place.
(12) Is the public concerned given early and effective opportunities to participate in decision-making environmental				0	No

procedures?					
(13) Are the results of the consultations with the public and relevant environmental authorities taken into account in the decision-making process?				0	<p>To date there is no procedure to consult with and to reveal the opinion of the public or central, regional and local governments.</p> <p>In case EIA process is linked to the process of granting the construction permit, the opinion of the Ministry of Environmental Protection (set forth in the State Environmental Expertise) is taken into account by the Ministry of Economy and Sustainable Development during decision-making on granting the construction permit.</p>
(14) Is the competent authority required to inform the public of the decision to grant or refuse to provide consent on implementation of the project?				0	<p>According to the Georgian legislation, competent authorities are not required to inform the public of the decision to grant or refuse permit or license, including permit for the impact on environment.</p>
Is the competent authority required to inform countries consulted in case of trans-boundary impact of the decision to grant or refuse development to the developer?					<p>Question is not relevant for Georgia.</p>
(15) Are the exceptions to information rights, e. g. related, for example, to commercial confidentially clearly set out?			1		<p>There are some general provisions on confidentiality set out.</p>
(16) Can the state authority which takes a decision on consent on implementation of the project to impose additional requirements in relation to positive decision?			1		<p>EIA process is not a part of granting the development consent. There is no such notion in the Georgian legislation. EIA reports are submitted to the Ministry of Environmental Protection for reviewing (State Environmental Expertise). The result of the review can be either positive (with or without conditions) or negative conclusion.</p>

				<p>The positive conclusion is attached to the permit for the impact on the environment; i.e. conditions set out in the conclusion automatically become permit conditions.</p> <p>Commencement of activity listed in the Law on Permit for Impact on the Environment without permit is forbidden.</p>
(17) Is a public right of appeal against the decision clearly set up and in place?			1	<p>Public right of appeal against the decision is in place and appropriate procedure is set up. However, there are problems in exercising this right. Just few of them are: high appeal fee, too lengthy judicial procedure, limited independence of courts and therefore, low confidence in courts.</p> <p>Besides, there is a problem, immediately related to EIA process and granting permits - Ministry of Environmental Protection is not obliged to make the decision public. Hence the public is denied the opportunity to appeal against it. Granted permits are available only upon request (if the public accidentally learns about it) but by then, permitted activities are on-going and the appeal becomes meaningless.</p>
(18) Does the EIA procedure include a follow-up requirement concerning the post-project analysis? If yes, is it well applied?			1	<p>Requirements for compliance monitoring and control were very weak. Sufficient to demonstrate one example – Inspectorate for Environmental Protection (under Ministry of Environmental Protection until March 2011) was not certain about its own eligibility to demand that the developers meet the commitments indicated in EIA reports.</p> <p>In May 2010 an amendment was introduced to the Law on Permit for the Impact on Environment in order to eliminate the above vagueness. However, as a result of the institutional reforms of March 2011 (the Inspectorate for Environmental Protection was abolished and instead two new units within two state authorities</p>

					were established) the effectiveness of environmental compliance monitoring and control is still Its effectiveness will be possible to be assessed when practical examples are available.
<b><i>Implementation of the Espoo Convention</i></b>					
(19) Did the country ratify this multilateral environmental agreement?				0	
Was the legislation adopted or changed in order to implement requirements of the international agreement?					Question in not relevant for Georgia.
If yes, then does this reflect obligations foreseen by the agreement properly?					Question in not relevant for Georgia.
Were the other measures taken in order to implement the international agreement?					Question in not relevant for Georgia.
Does the system of reporting on results of implementation of the international agreement exist in the country?					Question in not relevant for Georgia.
If yes, then did the country already report on results of the agreement implementation?					Question in not relevant for Georgia.
Was the country recognized as the country not following the international agreement?					Question in not relevant for Georgia.
<b><i>Implementation of the Protocol on Strategic Environmental Assessment (SEA)</i></b>					
(20) Did the country ratify this multilateral environmental agreement?				0	
Was the legislation adopted or changed in order to implement requirements of the international agreement?					Question in not relevant for Georgia
If yes, then does this reflect obligations foreseen by the agreement properly?					Question in not relevant for Georgia
Were the other measures taken in order to					Question in not relevant for Georgia



implement the international agreement?					
Does the system of reporting on results of implementation of the international agreement exist in the country?					Question in not relevant for Georgia
If yes, then did the country already report on results of the agreement implementation?					Question in not relevant for Georgia
Was the country recognized as the country not following the international agreement?					Question in not relevant for Georgia
<b><i>Country-specific questions</i></b>					
<b>Overall assessment:</b> Score from 0 to 57 (3x number of questions)			8		<b>8 (from 60)</b>
Per cent					<b>13.3%</b>

### **Comments and explanations:**

The government's commitment for deregulation after the "rose revolution" and the overall trend of weakening democratic institutions and democratic procedures in the country had crucial impact on the shaping of present EIA system. As is evident from the above information the existing EIA system is full of shortcomings, which affect its effectiveness. The system does not ensure public participation in environmental decision-making procedure; nor it helps decision-makers in taking informed decisions. Follow-up monitoring and control is also weak. Georgian EIA legislation does not meet the requirements of both, Aarhus Convention and appropriate EU directives.

### **Recommendations:**

The Georgian EIA system needs fundamental changes; at this stage it is possible to single out the following, most urgent measures:

1. Revision/improving of legislative framework for EIA system; the least it should imply is that: EIA apply to those public and private projects which are likely to have significant effects on the environment and human health (the activities, provided for in Annex 1 to Aarhus convention and Annex 1 to the EU directive 85/337/EEC); procedures of public information and participation are in place which would ensure early and effective public participation in decision-making processes.
2. Full inventory of regulated community and compliance promotion: alongside with legislative improvements, specific groups of regulated community should be identified (as well as specific facilities in each group) that are required to obtain permit for the impact on environment (pursuant to paragraph 2 of Article 22 of the Law on Permit for the Impact on Environment); to develop effective and realistic short-term and long-term strategic plans for each group to promote environmental compliance, instead of present strategy of "closing eyes" and postponing the problems to "better

times“. Implementation of this condition will require proper cost estimates and its reflection in appropriate agency’s budget. Also it is important that public is informed about plans and consulted.

## Objective 6: Improving access to information and public participation

Question	Yes			No	Notes
	Excellent	Adequate	Poor		
Grade	3	2	1	0	
<b>Implementation of Aarhus Convention</b>					
(1) Has the country ratified this multilateral environmental agreement?	3				
(2) Was the legislation adopted or changed in order to implement requirements of the international agreement?				0	According to Georgian Constitution international agreements override domestic legal acts provided they do not contradict to Georgian Constitution. So it is not necessary to transpose international agreements in the legislation. However, application of international agreements is not always easy. In most cases courts and administrative bodies (so called quasi courts) do not consider a Convention as the existing law. It should be mentioned that in the end of 1990s a draft law, based on Aarhus Convention principles and aiming at implementation of these principles, was elaborated, but no further developments followed.
If yes, then does this properly reflect obligations foreseen by the agreement?					The question is not relevant for Georgia
(3) Were the other measures taken in order to implement the international agreement				0	Georgia had higher standards at the time of ratification of the convention in all three pillars of the convention. 'Access rights' were gradually limited after 'Rose Revolution' of 2003.
(4) Does the reporting system on results of implementation of the international agreement exist in the country?	3				As a focal point of the convention, the Ministry of Environmental Protection reports to the convention bodies once in three years – national implementation reports were submitted in 2005, 2008 and 2011. Draft national implementation report is usually made public and interested parties are invited to comment. Final national report is placed at the web-site of Aarhus Centre (note – not at ministry's

					web-site).
(5) If yes, then did the country already report on results of the convention's implementation?	3				In 2005, 2008 and 2011.
(6) Was the country recognized as the country not following the international agreement?				0	No, officially it was not. 2011 Green Alternative published the alternative report on implementation of Aarhus Convention is Georgia. The report outlines areas where Georgia was found incompliant to the convention (available at Green Alternative's web-site: <a href="http://www.greenalt.org">www.greenalt.org</a> ).
<b>Implementation of the PRTR Protocol</b>					
(7) Has the country ratified this multilateral environmental agreement?				0	
Was the legislation adopted or changed in order to implement requirements of the international agreement?					The question is not relevant for Georgia
If yes, then does this properly reflect obligations foreseen by the agreement					The question is not relevant for Georgia
(8) Were the other measures taken in order to implement the international agreement?			1		The web-site on PRTR was developed with the UNITAR and SAICM Quick Start Program Trust Fund. The infrastructure for national PRTR was assessed.
Does the reporting system on results of implementation of the international agreement exist in the country?					The question is not relevant for Georgia
If yes, then did the country already report on results of the agreement implementation?					The question is not relevant for Georgia
Was the country recognized as the country not following the international agreement?					The question is not relevant for Georgia
<b>Access to environmental information</b>					
(9) Are there satisfactory administrative systems in place for prompt responses to requests for information			1		Public access to information is provided for by General Administrative Code but there are significant shortcomings in practice.

from the general public ?					
(10) Are there satisfactory guidelines available on information held by the state authorities and how to request access to such information?		2			Rules for requesting public information are provided in General Administrative Code but the type of information, to be held at public institutions is not specified.
(11) Are there well-established channels of the environmental information publication in the country (for example, laws, case-law, decisions of executive authorities and etc.)?			1		Statutory acts, including laws were published in “Legislative Herald of Georgia”. Administrative decisions, case-laws or other environmental information are not published.  22 October 2009 new Law on Statutory Acts was adopted. According to it publishing statutory acts in printed media is not compulsory anymore. According to new regulations, which entered into force 1 January 2011, first publication of the full text of a statutory act on the website of “Legislative Herald of Georgia” shall be the official (legally operative) publication.
(12) Is access to information free of charge <sup>15</sup> or inexpensive <sup>16</sup> ?			1		According to Article 38 of General Administrative Code it is impermissible to set any fee for the information except for copy fee. Note should be taken of the fact, that the fee is not very high; however, copy fee is very effective barrier, which public institutions have in their command. The procedures for collecting fee vary in different institutions, and in a range of cases its existence is a serious problem.
(13) Is there a secure data management system to handle commercially sensitive information and personal data in the country?			1		Personal data and commercially sensitive information management issues are set forth in General Administrative Code. However, there are significant shortcomings in terms of vagueness of information classification rules and their practical application.

<sup>15</sup>If yes, then the answer has to be “yes” – “excellent”.

<sup>16</sup>If yes, then the answer has to be “yes” – “good” or “yes” – “satisfactory” depending whether the access still remains simple despite payment or if there exist barriers to access.

(14) Are there clear guidelines for authorities on how to apply commercial confidentiality requirements, including on information disclosure due to public interest?			1		General Administrative Code provides for the guidelines on publication of confidential information. Besides, according to Article 42, environmental information, including the information on the hazard to human lives or health shall not be confidential. Despite such legal regulations, there are many problems in practice.
<b>Participation of the public</b>					
(15) Are there procedures for enabling public participation in decision making in place, e. g. have clear procedures been established for submitting of written comments or comments at hearings and for the notification of decisions?				0	No mechanisms enabling public participation in decision-making are in place. Nor is there any mechanism for the notification of decisions.
If yes, then are citizens well informed of these procedures?					The question is not relevant for Georgia
(16) Have tools been developed to identify the participating public? In particular, if there is an Environmental Impact Assessment procedure in place, does it also involve public participation?				0	The Law on Permit for the Impact on Environment provides for public consultation during drafting an Environmental Impact Assessment study, before application to the competent authority. Consultation meetings are not held by competent authority, but by project proponent. This cannot be considered as participation in the decision-making process.
(17) Are the outcomes of public participation procedures taken into account in an appropriate manner? Does public input have a tangible influence on the actual content of the decisions?				0	The existing of permitting does not allow public to participate in the decision-making processes; hence public opinion cannot have any influence on the actual content of the decisions.
(18) Have incentives been developed to allow applicants to engage in early dialogue with public?				0	No
<b>Access to Justice</b>					
(19) Does the country provide for independent				0	No

and impartial review bodies, including courts?					
(20) Have clear rules been developed in relation to the right of individuals and the NGOs to access judicial and other reviews for violations of the Convention and for violations of national environmental legislation?			1		Rules for appealing against denial of public information or its unlawful classification as secret are set forth in General Administrative Code. It also provides for appealing against administrative decisions. No appeal against violations of specific environmental law or of Aarhus convention is provided for in Georgian legislation.
(21) Is the mechanism to suspend execution of a decision, which is dangerous for environment developed (e. g. preliminary injunction for the period of decision appeal)?			1		Both, the author of administrative complaint filed with administrative body and the petitioner in the court can demand to suspend an administrative act. The court can, at a party's demand, suspend administrative act or part of it, if there is reasonable suspicion about its lawfulness or if its immediate application causes significant harm to the party or makes it impossible to protect its legal rights and interests. There was a case when temporary suspension of administrative act was requested while the complaint was being considered, because the decision would have been dangerous for the environment. The administrative authority did not suspend the act.
(22) Have the mechanisms been established to provide the public with information on access to justice procedures?				0	
(23) Have assistance mechanisms been developed for the public in accessing to the procedures, for example, financial support to pay for lawyer's services if necessary?				0	According to General Administrative Code no public tax or any other fee can be set for processing of an administrative complaint. All the fees, including the lawyer's fee, are paid by administrative authority if complaint is satisfied. For the court hearings paying public tax depends on whether the appeal was allowed or not. As for the amount of tax, it is quite high given the economic situation.

(24) Is there a time limit set by national legislation between the beginning of an appeal and a legal decision? If not, is the average of such a procedure acceptable?			1		Although time limits for processing of cases are set by national law, average length of a procedure may vary from 8-10 months to two years and more.
<b>Country –specific questions</b>					
(25) Are public institutions required to file and update environmental information?				0	To date there is no publicly available comprehensive environmental information in place.
(26) Are there tools to ensure informing the public on the kind and body of environmental information, available at respective public institution?				0	
(27) Must public institutions report on received appeals, negative decisions and their reasons?			1		As provided by General Administrative Code public institutions must report annually to the President and the Parliament about public information output. In reality most of public institutions do not prepare such reports.
(28) Is it possible to sue administrative body without lodging administrative complaint?				0	In accordance with the amendments to General Administrative Code, administrative body cannot be sued if the complainant did not use a one-time opportunity of lodging administrative complaint. Given the fact, that existing administrative proceedings are not efficient enough, this change created additional barrier in terms of access justice.
(29) Are there any mechanisms in place to ensure public participation during the preparation of executive regulations and/or generally applicable legally binding rules (Article 8 of Aarhus convention)				0	There were such mechanisms in place (chapter 15 of General Administrative Code) but they were seldom applied in practice. October 2009, despite the NGOs' opposition, these mechanisms were annulled. In particular, the provisions of General Administrative Code about public participation in preparation of regulations by public authorities through public administrative



					proceedings were annulled.
<b>Overall assessment:</b> Score of 0 to 87 (3x number of questions)	9	2	10		<b>21 (from 87)</b>
Per cent					<b>24.1%</b>

### **Comments and clarifications:**

Only one out of three pillars of Aarhus Convention is comparatively well represented in Georgia – it is access to information. In particular General Administrative Code of Georgia provides for access to public information and defines the rules for requesting the information. However, there are significant shortcomings in practice: often the information release is delayed; the staff, responsible for information output is not appointed; it is not clear what responsibility is set for the violators of rules of releasing the information; sometimes there are problems related to protection of personal data and often with information classification; there is no practice of processing confidential information and isolation of secret piece of information. Besides, the type of information in disposal of each public institution is not defined.

Procedures for participation in decision-making are not practically ensured. In compliance with existing mechanisms of public participation, consultations with the public on specific activities (that are subject to EIA) are held not by decision-making body, but by the project developers prior to commencement of administrative decision-making procedures. This means that there is no opportunity for public to participate in decision-making processes, nor is a public informed on already taken decision.

Access to justice is also problematic. No clear rules are set for individuals and NGOs to access judicial bodies for violations of environmental law. Besides, there are no mechanisms of informing the public on access to justice procedures, deadlines for court proceedings are often violated.

### **Recommendations:**

The Georgian legislation should be revised so that to bring in into compliance with the requirement of Aarhus convention.

## Objective 7: Cooperation on development of the Shared Environmental Information System (SEIS)

Question	Yes			No	Notes
	Excellent	Adequate	Poor		
Grade	3	2	1	0	
<b>Implementation of the SEIS Project</b>					
(1) Did experts of SEIS project make country visit to identify priorities and plan of activities?	3				
If not, is it planned to organise such a visit in the nearest future?					The question is not relevant for Georgia
(2) If yes, then were representatives of the public invited to such a meeting?	3				
(3) Is a person responsible for implementation of the project in the country appointed in the Ministry/another authority?				0	
(4) Does the public know the appointed responsible person?				0	
(5) Is the information on the project available on the website of the responsible authority/Ministry?				0	
Was the action plan for the country adopted or is it in the process of development?					The question is not relevant for Georgia
Do the priorities in the plan correspond to the ones proposed by the public?					The question is not relevant for Georgia
Has the interdepartmental authority on coordination within the framework of the project at the country level been created or is coordination assigned to already existing interdepartmental authority of environmental monitoring? (specify in the Notes)					The question is not relevant for Georgia
<b>System of collection/provision of environmental information and the public</b>					
(6) Does the unified electronic database of environmental data exist in the country?				0	
If yes, then is it available for the public on the Internet?					The question is not relevant for Georgia
(7) Does the authority responsible for collection, processing, and provision of				0	

environmental information exist in the format, which does not need additional payments and interpretation?					
(8) Does the national legislative act on regularity of preparation and adoption of the National State Of Environment Report exist? (indicate the national legislative act and frequency in the Notes)	3				The Law on Environmental Protection (1996) required the Ministry of Environmental Protection and Natural Resources to publish annually national SoE reports. The amendments introduced in the law on 14 December 2007 require the Ministry to prepare such reports once every three years.
(9) Does the actual periodicity of issuing of the report comply with requirements of the national legislation?				0	State of the environment (SoE) annual reports used to be prepared in 2001-2005. As a result of December 2007 legislative changes, preparation of such reports were suspended and resumed in the end of 2009. In 2010 Ministry of Environmental Protection and Natural Resources, with EU financial support, prepared 2007-2009 state of the environment report.
(10) Is it possible to find information on the main indicators for the last 2 years in free access in case, if the report is issued irregularly?			1		None of the 2001-2005 annual SoE reports were published and disseminated. Only some time ago they become available online at Aarhus centre's web-site (not at Ministry's web-site).
(11) Does the Ministry engage the public to cooperation in collection and/or preparation and/or dissemination of information?			1		Unlike 2001-2005 annual SoE reports, the public was engaged in collection and preparation of the first three-year SoE report. None of SoE report was disseminated. Three-year (2007-2009) was finalized at the end of 2010, however it is not officially approved and published (legal requirement is such that Ministry of Environmental Protection prepares the report and

					President of Georgia approves it by resolution, after the consultations with interested authorities.).
<b><i>Political will to solve problems of monitoring and information management</i></b>					
(12) Does the Ministry/authorized body openly discuss the problems of the monitoring system and its maintenance?			1		
(13) Are significant funds foreseen in the budget of the country/SEPF for improvement of the technical support of the monitoring system?				0	
(14) Are measures for development of the automated information system and for providing access to this system via Internet foreseen in the Action Plan/budget?				0	
(15) Is there a decision on approval of indicators of environmental policy's efficiency(if yes, then what is the status of the document of such a decision)				0	
Have those indicators already been used to assess any existing policy?					The question is not relevant for Georgia
Has the public been engaged to the works on those indicators?					The question is not relevant for Georgia
<b><i>Country –specific Questions</i></b>					
<b>Overall assessment :</b> Score of 0 to 30 (3x number of questions)	9		3		<b>12 (from 45)</b>
Per cent					<b>26.6%</b>

### Comments and clarifications:

This area earned one of the lowest score in Green Alternative's 2009 report. To change the situation in this area, as a short term measure Green Alternative recommended to work towards the improvement of practice of SoE report preparation. This recommendation was taken into account during preparation of 2007-2009 report and this fact should, undoubtedly be commended. The report structure and the quality of analysis have improved; it was prepared in consultation with the public, which was not the case with previous (2001-2005) ones. Also the last report points out information

gaps, which allows the reader to judge about its completeness and reliability of the information presented in the SoE report.

Undoubtedly, such progress would not be possible without the methodological assistance provided within EU financed project. So, it is important that Ministry of Environmental Protection takes into account the experience and lessons learned when preparing next 2010-2012 report independently. For the improvement of quality of information provided in the SoE reports, it remains important to strengthen environmental monitoring and enforcement systems.

# MOLDOVA

## Objective 1: Strengthening cooperation with the European Union

Question	Yes			No	Notes
	Excellent	Adequate	Poor		
Grade	3	2	1	0	
<i>Policy</i>					
(1) Were negotiations on conclusion of the Association Agreement (AA) started or not? If “yes”, specify the date of the beginning of negotiations in Notes.	3				Negotiations on Agreement of Association (AA) between Moldova and the EU were started (January 12, 2010, Chisinau).
If “not”, what agreement regulates cooperation of the country with the EU at the present time? (additional question, should not be graded)				0	
(2) Was the strategic political instrument for implementation of a decision on holding negotiations on the AA adopted? If “yes”, then does it have a legal act status? For example, Agenda of Association (AofA), other (specify in Notes).		2			The Government of Republic of Moldova completely revised the agreement and defined the Moldova-EU cooperation strategy aiming at obtaining real approach to the EU in September 2010. The European Parliament (EP) adopted Resolution on negotiations in relation to the RM-EU Agreement of Association in Strasburg on September 15, 2011.
<i>Institutional Aspects</i>					
(3) Does the Ministry of Foreign Affairs have a special unit/department on cooperation with/integration into the EU <sup>17</sup> ?	3				Within the Ministry of Foreign Affairs and European Integration there is the Department of European Integration.
(4) Have government officials received training on cooperation/integration with the EU?			1		Training is held on separate directions of the state public authorities.
(5) Does the government provide the public with			1		In principle this information is on the

<sup>17</sup>Evaluation is based on the value expert judgment of the efficiency level of authorities of this unit.

information on cooperation policy and on activities with the EU?					Ministry of Foreign Affairs and European Integration web-site, but this information is not always actualized in time.
(6) Does the government monitor regularly and officially implementation of the AofA/ another Action Plan?		2			The governmental programme of activities “European Integration: Freedom, Democracy, Welfare” is the basis for governing policies in Republic of Moldova for 2009-2013. European integration is the main requirement of domestic and foreign policy of Republic of Moldova. Report on implementation of tasks of the governmental programme “European Integration: Freedom, Democracy, Welfare” for 2009-2013 is published in bulletin of the government and at the website.
<i>Cooperation in the field of the environment</i>					
(7) If a policy instrument has been adopted for the AA preparation (like AofA)/Action Plan implementation, does it describe any specific actions and deadlines for achieving environmental objectives?		2			The governmental programme “European Integration: Freedom, Democracy, Welfare” for 2009-2013 contains the chapter “Environment Protection”.
(8) Do legislative programming instruments provide for the adoption of the legislation necessary for the implementation of the environmental objectives of the AA/Action Plan?		2			Tasks: Ensuring adequate grounds for environment protection and long-term utilization of natural resources. Reducing the negative impact of economic activities on environment, natural resources, and population health. Increasing the level of natural disaster

					protection. Growth of the level of environmental culture of the population.
(9) Are annual priorities/action plans on the AofA implementation being approved in the form of regulatory act?		2			The Decree of the Government No. 1345 of November 24, 2006 on Harmonization of Legislation of Republic of Moldova with the Legislation of Community has been adopted for these purposes. Priorities in activities of the Ministry are planned annually.
(10) Were the consultations with the NGOs held on contents of the AofA environmental chapter?		2			Opinions of the public are considered during the period compliant with the plan of preparation of draft regulations.
<i>Country-specific questions</i>					
<b>Overall assessment:</b> Score from 0 to ... (3x number of questions)	6	12	2		<b>20 (of 30 available)</b>
Per sent					<b>66.7%</b>

### Comments and explanations:

During the last quarter of 2009<sup>1</sup> efforts addressing structural reforms activated in the country on the basis of adopted by the government strong European integration programme coordinated with the EU-Moldova Action Plan. Dialogue with the general public improved and measures on improvement of transparency in decision making on the side of state authorities were taken. Negotiations on the future of the EU-Moldova Agreement of Association were started in January 2010. The Government of Republic of Moldova completely revised the agreement and defined the Moldova-EU cooperation strategy aiming at obtaining real approach to the EU in September 2010. The European Parliament (EP) adopted Resolution on negotiations in relation to the RM-EU Agreement of Association in Strasbourg on September 15, 2011.

European integration is the main requirement of domestic and foreign policy of Republic of Moldova. The governmental programme of activities “European Integration: Freedom, Democracy, Welfare” is the basis for governing policies in Republic of Moldova for 2009-2013. Report on implementation of tasks of the governmental programme “European Integration: Freedom, Democracy, Welfare” for 2009-2013 is published in bulletin of the government and at the website.

The governmental programme “European Integration: Freedom, Democracy, Welfare” for 2009-2013 contains the chapter “Environment Protection”.

<sup>1</sup> 2009 was a year of serious hardship in the EU-Moldova relations. The Parliament elections were held in Moldova in April. Results of the elections were controversial. The EU-Moldova relations met with problems during the most part of the year until they recovered with formation of the new Government.

[http://www.enpi-info.eu/maineast.php?id=537&id\\_type=2](http://www.enpi-info.eu/maineast.php?id=537&id_type=2)



***Recommendations:***

It is recommended to intensify participation of the general public, including consultations with the NGOs on the contents of the environmental AofA chapter.

It is also necessary to attract public during discussion of the AA of Moldova and EU. It is essential that corresponding information was placed on the web-sites of all Ministries involved, not only Ministry of Foreign Affairs and European Integration.

Effective dialogue and information exchange among administrative bodies.

More effective monitoring of the strategic documents realization.

## Objective 2: Strengthening of administrative structures and procedures

Question	Yes			No	Notes
	Excellent	Adequate	Poor		
Grade	3	2	1	0	
<i>Administrative structures</i>					
<i>At the national level</i>					
(1) Is the Ministry of Environment Protection (EP) established in the country? If yes, do its authorities include all the major environmental issues in the country (e. g. water, wastes, air, biodiversity, etc.)? (Specify the precise name of the Ministry in Notes)	3				<p>Decree No. 847 of December 18, 2009 on Approval of Regulation on Organization and Functioning of the Ministry of Environment, Structure and Maximum Staff Size of the Central Apparatus.</p> <p>The Ministry of Environment of Republic of Moldova contains  <i>The Central Apparatus</i>, Department of Analysis, Monitoring, and Evaluation of Policies, Department of Natural Resources and Biodiversity, Department of Prevention of Environment Pollution, Department of Planning, Finance, and Accounting (the National Environmental Fund as a part of it). Other ministries and state institutions, particularly the Ministry of Economy and Trade, Ministry of Finance, Ministry of Industry and Infrastructure, Ministry of Agriculture, Food Processing Industry, and Ministry of Transport and Public Roads cooperate with the ME in the field of financing of programmes and projects, comprising of components related to the EP. Their financing is ensured by the State Budget. However, industry ministries do not carry out separate monitoring of expenditures on line items related to environment.</p>

(2) Are other bodies responsible for the EP issues established? (list in the Notes)		2			Yes.
(3) Are they subordinate bodies of the Ministry? (Summarize the subordination level in the Notes)	3				<p>List of institutions under the Ministry of Environment: Agency «Apele Moldovei», Agency for Geology and Mineral Resources, the National Agency for Regulation of Nuclear and Radiological Activities, The State Environmental Inspection, the State Hydrometeorological Service, Fishery Conservation Service, Institute of Ecology and Geography (double subordination: to the Academy of Science of Moldova and the Ministry of Environment).</p> <p>Institutions, activities of which are coordinated by the Ministry of Environment Division on Establishment of Water Supply and Sewerage State enterprises one of the founders of which is the Ministry of Environment SE Hydrogeological Expedition "EHGeoM"</p>
(4) Do they duplicate functions of the Ministry?				0	No, institutions and organizations, which are subordinate and/or coordinated by the Ministry, act on following the regulations on creation and own Regulations on organization and functioning.
(5) Has the State EP Fund been created in the country?				0	No, the National and Local Environmental Funds are established in the country. The National Fund complies with the Decree of the Government of Republic of Moldova No. 988 of September 26, 1998 and is created for the purposes of collection of additional

					financial means for financing of activities in the field of environment.
(6) Have its financial resources been increased during the last five years? (specify dynamics of funds for 2007-2009 in the Notes)			1		Yes, this is related to revenues from payments for pollution in accordance with the Law No. 1540 on Payment for Pollution of Environment.
(7) If increased, then was such increase related to indexation of rates of the environmental charges? (in what year did it take place?)			1		According to the Law the increase is related to funds incoming as payment for imports of goods in the process of utilization of which pollutants are released into environment. They are appropriated exclusively for compensation of expenditures related to collection and sorting of accumulated wastes, for support of enterprises of waste utilization and deactivation, and also for improvement of atmospheric air quality.
(8) If yes, was it related to improvement of control of the enterprises' activities?			1		Fund accumulates resources from enterprises which cause harm to environment but, usually, they are insignificant.
(9) Is consolidation and prioritization of the SEPF (State Environmental Protection Fund) targeted financing to solve the acute environmental problems observed?			1		The environmental agencies (inspections) maintain records and collect payments for pollution of environment. Funds which were accumulated or should be accumulated on accounts of local environmental funds of territorial bodies, central body in the EP, and local authorities are transferred to special accounts of environmental agencies (inspections)
(10) Is the State Environmental Inspection established in the country?	3				The State Environmental Inspection was established under the Decree of the Government No. 77 of January 30, 2004 on Approval of Regulation on the State Environmental

					Inspection and Its Structure. It execute functions of environmental control in the field of environment protection and utilization of natural resources; carries out environmental expertise.
(11) Is it an independent authority within the EP system?	3				The State Environmental Inspection is an independent division of the Ministry of Environment Protection with the legal entity status.
<i>At the regional/local level</i>					
(12) Does the structure of the Ministry include its territorial branches? (if yes, specify the administrative coverage in the Notes, for example oblast level branches)		2			Territorial divisions of inspection form a part of environmental agencies. They operate without legal entity status and are managed directly by the central apparatus of inspection with coverage of their maintenance costs. Environmental agencies are in Chisinau, the northern one in Beltsi, the southern is in Kagul and Gagauzia, and also in 32 districts.
(13) Does the State Environmental Inspection have its territorial offices? (if yes, specify the administrative coverage in the Notes, for example district-oblast-region level branches)		2			Yes, there is an environmental division in each administrative and territorial entity (district, municipality).
(14) Do regional/local authorities have authority in the field of environment protection? Is there clear division of competence between the national and regional/local authorities?		2			Yes, district units operate in close contact with local state authorities in all the environment protection fields. Powers of the units are defined by Regulation on Orientations for Directions of Environment on the central and local levels.
(15) Is the SEPF distributed to the oblast/local level? (if yes, specify then levels, shares of the national-oblast-local level, and also spending units)		2			Local environmental inspections are established at the local level. They are governed in accordance with Decree No. 988 of September 21, 1998. Besides this the Local Officials (at the level of communes, municipalities,

					and districts) include in their annual budgets expenditures on the EP. However, these expenditures are limited. In most cases local authorities rely on financing of environment protection projects from the NEF and LEF. Furthermore, public utilities, most of which are in municipal property, are responsible for expenditures related to technical maintenance and development of infrastructure public water supply, collection and treatment of waste waters, and also solid waste removal.
<b><i>Strategic planning</i></b>					
(16) Is there an environment protection strategy in place or planned to be adopted? If yes, then is it of a good quality?		2			Presently, works on preparation of the Environmental Policy Strategy come to an end.
(17) Are the tasks of institutional strengthening of the EP management system included into the strategy?		2			Yes. Establishment of new entities within the TEI, particularly environment protection agencies, is foreseen in accordance with the strategy.
(18) Have steps been taken to implement the strategy?				0	
(19) Is the strategy being revised regularly (e. g. once in 5 years?)			1		Yes.
(20) Are there sector-specific strategies to support the overall strategy?		2			Yes. The Strategy of Industry Development by 2015 (Decree No. 1149 of October 5, 2006), The Strategy of Surface Transport Development for 2008-2017 (Decree No. 85 of February 1, 2008).
(21) Are there procedures, such as consultations between the ministries/authorities in place?		2			Yes, this responsibility is laid on the Department of Environmental Policy and European Integration of the ME. Its responsibility is coordination of activities on improvement of the national environment protection

					legislation and approximation of the national legislation to the EU legislation.
(22) If yes, is the role of the Ministry of Environment and other environmental authorities to coordinate within these procedures?			1		Yes. This is set forth by the Law No. 1515-XII of June 16, 1993 on Environment Protection and Decree of the Government No. 847 of December 18, 2009.
(23) Are there formal procedures to facilitate coordination between the authorities and other relevant actors (civil society, scientific community)?		2			The Ministry of the EP actively cooperates with the NGOs for the purposes of the state EP policy realization.
(24) Has cooperation between different stakeholders improved from the moment of the beginning of negotiations on the AA?			1		Yes.
<b>Country-specific questions</b>					
<b>Overall assessment:</b> Score from 0 to 54 (3x number of questions)	12	22	7		<b>41 (of 72 available)</b>
					<b>56.9%</b>

### Comments and explanations:

MEP coordinates activities on realization of provisions of the international agreements in the field, in which Republic of Moldova is a party; develops legal framework for fulfilment of objectives in the areas of its competence ensuring their compatibility with international agreements, in which Republic of Moldova is a party, and European legislation; ensures monitoring of pollution of environment, meteorological, hydrological, and hydro meteorological observations aiming at provision of population, economy, national defence, and also public administration authorities with hydro meteorological information.

### Recommendations:

Closer cooperation between MEP and other ministries and institutions is needed. Unfortunately the issue of environment protection is not the priority for Government of Moldova, that's why MEP together with NGOs should lobby this question.

### Objective 3: Development of strategies, plans and programmes in the environment protection field

Question	Yes			No	Notes
	Excellent	Adequate	Poor		
Grade	3	2	1	0	
<i>Preparation and adoption</i>					
(1) Have relevant strategies, plans, and programmes been prepared from the moment of the Action Plan adoption?	3				To ensure fulfilment of tasks of the Governmental activities programme “European Integration: Freedom, Democracy, Welfare” for 2011-2014 the following documents were adopted: Programme of Stabilization of Economic Recovery in Republic of Moldova for 2009-2011, approved by the Decree of the Government No. 790 of December 1, 2009 (Official Monitor of Republic of Moldova, 2009, No. 174-176, p. 874), The National Development Strategy for 2008-2011, approved by the Law No. 295-XVI of December 21, 2007 (Official Monitor of Republic of Moldova, 2008, No. 18-20, p.57), Commitment to Partners on Governmental Action Plans for 2011-2014.
(2) Have these strategies, plans or programmes been officially adopted at the level of Parliament/Government?	3				The Governmental Action Plan for 2011-2014 is adopted via Decree of the Government No. 179 of March 23, 2011.
<i>Process</i>					
(3) Did the ministries play the active role in preparation of strategies, plans or programmes in different sectors, e. g. transport, industry, energy, healthcare? Does the Ministry of Environment play the leading role in their development?			1		The EP chapter is included into the sectoral programme strategies. The energy strategy of Republic of Moldova by 2020 is adopted (Decree of the Government No. 958 of July 21, 2007). The National Concept for agriculture ecologization, manufacturing of environment-friendly and



					genetically modified products (Decree of the Government No. 863 of August 21, 2002) and others.
(4) Did the local and regional authorities play the active role in preparation of strategies, plans, and programmes?			1		Yes.
(5) Did civil society play an active role in different sectors (environmental NGOs, business & industry, others)?			1		Yes.
<b>Content</b>					
(6) Do newly prepared strategies/plans contain elements of approximation to the EU environmental policy?	3				Yes.
(7) Do plans and programmes clearly define division of responsibility for their implementation?			1		Yes.
(8) Do the plans and programmes contain clear and realistic financial plan, which define resources, requirements, and ways of implementation?			1		Financial resources are provided for but usually they are insufficient for realization of programmes.
(9) Do the strategies, plans, and programs define priorities in actions?		2			Yes.
(10) Do the strategies, plans, and programmes foresee monitoring, evaluation and reporting mechanisms?		2			Yes.
<b>Implementation</b>					
(11) Have any steps been taken to implement the strategies, plans and programmes?		(2)			Is on the stage of implementation.
<b>Country-specific questions</b>					
<b>Overall assessment:</b> Score from 0 to 36 (3x number of questions)	9	6	5		<b>20 (of 33 available)</b>

Per cent					<b>60.6%</b>
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**Comments and explanations:**

To ensure fulfilment of tasks of the Governmental activities programme “European Integration: Freedom, Democracy, Welfare” for 2011-2014 the following documents was adopted, sectoral action plans were developed.

The EP chapter is included into the sectoral programme strategies. The energy strategy of Republic of Moldova by 2020, The National Concept for agriculture ecologization, manufacturing of environment-friendly and genetically modified products are good examples of taking into account the recommendations of Ministry of Environment.

Financial resources are provided for but usually they are insufficient for realization of programmes.

**Recommendations:**

It is recommended to improve the laws and regulations, including national standards, in accordance with demands of European Directives and international treaties.

**Objective 4: Ensuring integration of environmental aspects into other policy sectors(promoting sustainable development)**

Question	Yes			No	Notes
	Excellent	Adequate	Poor		
Grade	3	2	1	0	
<b><i>Integration of environment into sectoral policies</i></b>					
(1) Is environmental requirements' (policy's) integration into other policy spheres set legally as compulsory?		2			Yes, the Law No. 317 of July 18, 2003 on regulations of the Government and other central and local public authorities and also Decree of the Government No. 33 of January 1, 2007 on rules of development and other requirements to policy documents.
If not, then is such a decision at the preparatory stage now?	-	-	-	-	
(2) Strategies, plans, and programmes: has a common policy been adopted?		2			
<b><i>Preparation of the National Strategy</i></b>					
(3) Has the national sustainable development strategy been adopted since the signing of the Action Plan?	3				The National Development Strategy for 2008-2011, approved by the Law No. 295-XVI of December 21, 2007 (Official Monitor of Republic of Moldova, 2008, No. 18-20, p.57)
If no, then is such a strategy at the preparatory stage now?					
(4) Was the national environmental policy strategy adopted from the moment of the Action Plan signature?				0	The Environmental Policy Concept, approved by the Decree of the Government No. 605
(5) If not, then is such a strategy at the preparatory stage now?			1		Presently, the Draft National Environmental Strategy is developed. It is now in the process of accord with ministries and institutions.
<b><i>Interdepartmental governance bodies</i></b>					

(6) Has the National Sustainable Development Council (NSDC) been created in the country?		2			Order No. 138 of July 7, 2005 on establishment of the National Council for Sustainable Development and poverty alleviation.
(7) Are the representatives of nine major society groups represented in it?		2			Yes.
(8) Are the representatives of environmental NGOs represented in it?		2			Yes.
(9) Are the activities of the NSDC transparent and are they properly communicated?			1		Partially.
(10) Does the NSDC consider issues related to integration of environmental policy?			1		Partially.
(11) Were the general committees created or other measures taken towards integration of environment into the sectoral policy?		2			Creation of interdepartmental committees for sustainable development.
<b><i>Some instruments of the environmental policy integration</i></b>					
(12) Has legislation on the obligatory carrying out of the EIA (SEA) in relation to policies, strategies, plans, and programmes been adopted?		2			Foundations for carrying out SEA are laid in the Law of 1996 on environmental expertise and environmental impact analysis (with the latest amendments of 2003). Furthermore, the country (from 1993) is a Party of the Espoo Convention on environmental impact analysis with consequent changes and amendments.
(13) If yes, then are there positive practices of the EIA (SEA) carrying out?	3				Yes, there are positive examples of fulfilment of the Espoo Convention requirements. Now the new EIA draft-law, which is based on demands of European directives and Espoo convention, is elaborated and submitted to the Government.

If not, then is such legislation at the preparatory stage now?			1		Presently new Drat Law on environmental impact analysis which is based on requirements of European Directives in this field and Espoo Convention is developed and submitted to the Government for consideration.
(14) Is the law on environmental audit adopted?		2			Adopted by the Decree of the Government No. 395 of April 8, 1998 on approval of Regulation on Environmental Audit of Enterprises.
If not, then is such a law at the preparatory stage now?					
(15) Have new economic instruments been established to stimulate more efficient environmental management on enterprises since signing of the Action Plan? If yes, provide an example in the Notes.				0	Law No. 1540 of February 25, 1998 on payment for pollution of environment
<b>Process</b>					
(16) Did ministries in different sectors play an active role in preparation of the SD strategy?			1		Yes.
(17) Did representatives of civil society play an active role in different sectors (environmental NGOs, manufacturing industry, others)?			1		Yes.
(18) Have the text proposals of the public been taken into account in the final document?			1		Yes.
(19) Did Ministries play an active role in preparation of the environmental policy strategy in different sectors?			1		Yes.
(20) Did representatives of civil society in different			1		Yes.

sectors (environmental NGOs, industry, others) play an active role?					
(21) Have the text proposals of the public been taken into account in the final document?			1		Yes.
<b>Implementation</b>					
(22) If the SD strategy was adopted, then have steps been taken to implement its actions?			1		On the stage of implementation
(23) If the environmental policy strategy was adopted, then have the steps been taken to implement its actions?				0	
<b>Country-specific questions</b>					
<b>Overall assessment:</b> Score from 0 to 54 (3x number of questions)	6	18	10		<b>34 (of 69 available)</b>
Per cent					<b>49.3%</b>

**Comments and explanations:**

Presently, the Draft National Environmental Strategy is developed. It is now in the process of accord with ministries and institutions.

**Recommendations:**

Faster adoption of the strategy and obligatory implementation plan is needed.

Now the new EIA draft-law, which is based on demands of European directives and Espoo convention, is elaborated and submitted to the Government.

Ministry of Environment should more forcefully require that environmental issues were included into different strategies, programmes etc.

To inform decision makers, NGOs and public, that the goals of sustainable developments are necessity and obligation in all spheres of environment.

To elaborate the mechanisms for SD strategy realization, that would provide synergy and coordination of activities and reporting.

## Objective 5: Reinforcing of structures and procedures to carry out environmental impact assessment (EIA)

Question	Yes			No	Notes
	Excellent	Adequate	Poor		
Grade	3	2	1	0	
<i>General aspects</i>					
(1) Does the existing legislation require EIA for activities likely to have significant impact on natural resources and the environment? If not, is the adoption of such legislation planned?		2			Foundations for environmental assessment are set forth in the Law of 1996 on Environmental Expertise and Environmental Impact Analysis (with consequent amendments, adopted in 2003). Presently the new Law on Environmental Impact Analysis is under development.
<i>Structures</i>					
(2) Are responsibilities clearly defined and distributed between the national and regional/local governments?		2			Yes.
(3) Is the capacity of the regulatory authorities sufficient? <sup>18</sup>			1		Absence of human resources.
<i>Procedures</i>					
(4) Are criteria and procedure for defining which activities are subject to EIA clearly established?		2			Yes, the environmental impact analysis is foreseen in the Art. 4 of the Law No. 851 of May 29, 1996.
(5) Does the procedure in place provide for a preliminary screening stage to decide if an EIA is required for the proposed project?		2			Yes.
(6) Does the procedure in place provide for a scoping stage to identify the potential significant impact and main alternatives to assess?		2			Yes, by the Regulation on the EIA and by the Law No. 851 of May 29, 1996.
(7) Is the information to be provided by the developer in		2			Yes.

<sup>18</sup>This question is rather subjective benchmark, although it is important as without sufficient capacity, legal requirements can hardly be implemented and enforced. It relates mainly to the number and the degree of qualifications of people in charge of reviewing EIA at the national and regional level

the EIA clearly established e.g. through setting the minimum content of the EIA?					
(8) Are consultation procedures with authorities likely to be concerned by the project in place and well applied?		2			Yes, the Law on Environment Protection.
(9) Does the legislation clearly require the relevant country authorities and stakeholders to be informed in the case of probable trans-boundary impacts?		2			Yes.
(10) Does the legislation clearly require consultations with the relevant country authorities and stakeholders in case of probable trans-boundary impacts?		2			Yes.
(11) Are clear procedures in place to ensure effective information for the public early stages on in the process?		2			Yes.
(12) Is the public concerned given early and effective opportunities to participate in decision-making environmental procedures?		2			Yes.
(13) Are the results of the consultations with the public and relevant environmental authorities taken into account in the decision-making process?		2			Yes.
(14) Is the competent authority required to inform the public of the decision to grant or refuse to provide consent on implementation of the project?		2			Yes.
(15) Is the competent authority required to inform countries consulted in case of trans-boundary impact of the decision to grant or refuse development to the developer?		2			Yes, Moldova signed the agreement and joined the Convention on Trans-Border Impacts.
(16) Are the exceptions to information rights, e. g. related, for example, to commercial confidentiality clearly set out?		2			Yes.



(17) Can the state authority which takes a decision on consent on implementation of the project to impose additional requirements in relation to positive decision?		2			It is allowed to establish additional demands for positive decision (according to the Decree of the Government No. 103 of October 3, 2005).
(18) Is a public right of appeal against the decision clearly set up and in place?		2			Yes.
(19) Does the EIA procedure include a follow-up requirement concerning the post-project analysis? If yes, is it well applied?		2			Yes, in accordance with the No. 852 of May 29, 1996.
<b>Implementation of the Espoo Convention</b>					
(20) Did the country ratify this multilateral environmental agreement?	3				According to the Decree of the Government No. 1546-XII of June 23, 1993, Moldova joined the Espoo Convention (entered into force in 1997).
(21) Was the legislation adopted or changed in order to implement requirements of the international agreement?		2			The Law No. 851 of May 29, 1996 foresees these requirements. Presently, the new Law on the EIA is under development with taking into account the EU requirements.
(22) If yes, then does this reflect obligations foreseen by the agreement properly?		2			Yes.
(23) Were the other measures taken in order to implement the international agreement?		2			Yes.
(24) Does the system of reporting on results of implementation of the international agreement exist in the country?		2			Yes.
(25) If yes, then did the country already report on results of the agreement implementation?		2			Yes.
(26) Was the country recognized as the country not following the international agreement?				0	No.

<i>Implementation of the Protocol on Strategic Environmental Assessment (SEA)</i>					
(27) Did the country ratify this multilateral environmental agreement?				0	Moldova signed the Protocol on the Strategic Environmental Assessment (SEA) to the Convention adopted in Espoo during the 5 <sup>th</sup> Conference of Ministers “Environment for Europe”. Is not ratified.
Was the legislation adopted or changed in order to implement requirements of the international agreement?	-	-	-	-	
If yes, then does this reflect obligations foreseen by the agreement properly?	-	-	-	-	
Were the other measures taken in order to implement the international agreement?	-	-	-	-	
Does the system of reporting on results of implementation of the international agreement exist in the country?	-	-	-	-	
If yes, then did the country already report on results of the agreement implementation?	-	-	-	-	
Was the country recognized as the country not following the international agreement?	-	-	-	-	
<i>Country-specific questions</i>					
<b>Overall assessment:</b> Score from 0 to 57 (3x number of questions)	3	46			<b>50 (of 81 available)</b>
					<b>61.7%</b>

**Comments and explanations:**

Presently, the new Law on Environmental Impact Analysis is under development.

## Objective 6: Improving access to information and public participation

Question	yes			No	Notes
	Excellent	Adequate	Poor		
Grade	3	2	1	0	
<i>Implementation of Aarhus Convention</i>					
(1) Has the country ratified this multilateral environmental agreement?	3				The Aarhus Convention was ratified by the Decree of the Government No. 346 of April 7, 1999.
(2) Was the legislation adopted or changed in order to implement requirements of the international agreement?	3				The Law No. 239 of November 13, 2008 on Transparency of the Decision Making Process have been adopted and came into effect.
(3) If yes, then does this properly reflect obligations foreseen by the agreement?		2			This Law regulates relations of the state authorities with citizens and their associations due to their participation in the decision making process. In such a manner requirements on carrying out consultations in relation to draft regulations and ensuring transparency in activities of public administration authorities.
(4) Were the other measures taken in order to implement the international agreement?		2			Yes, the Decree of the Government No. 96 of February 16, 2010 on Activities of Implementation, The Decree of the Government No. 668 of June 19, 2006 on Official Websites of the Public Administration Authorities in the Internet.

(5) Does the reporting system on results of implementation of the international agreement exist in the country?		2			Yes.
(6) If yes, then did the country already report on results of the convention's implementation?		2			Yes.
(7) Was the country recognized as the country not following the international agreement?				0	No.
<b>Implementation of the PRTR Protocol</b>					
(8) Has the country ratified this multilateral environmental agreement?				0	No.
Was the legislation adopted or changed in order to implement requirements of the international agreement?				0	
If yes, then does this properly reflect obligations foreseen by the agreement				0	
Were the other measures taken in order to implement the international agreement?				0	
Does the reporting system on results of implementation of the international agreement exist in the country?				0	
If yes, then did the country already report on results of the agreement implementation?				0	
Was the country recognized as the country not following the international agreement?				0	
<b>Access to environmental information</b>					
(9) Are there satisfactory administrative systems in place for prompt responses to requests for information from the general public?		2			In accordance with the Law No. 239-XVI of November 13, 2008 on Transparency of the Decision Making Process, public authorities developed internal rules for procedures of ensuring direct participation of citizens, created in accordance with

					legislation associations of citizens, and other interested parties in the process of environmental decision making.
(10) Are there satisfactory guidelines available on information held by the state authorities and how to request access to such information?		2			Yes, the Decree of the Parliament on Approval of the Concept of Cooperation between the Parliament and Civil Society No. 373 of December 29, 2005 ensures realization of provisions of the Concept of cooperation between the Parliament and Civil Society. The following principles should be followed during the process of cooperation: a) participation b) openness c) efficiency d) equality e) independence
(11) Are there well-established channels of the environmental information publication in the country (for example, laws, case-law, decisions of executive authorities and etc.)?		2			The Law No. 982 of May 11, 2000 on Access to Information sets forth the ways of information provision. All the environmental information is provided at the website of the Ministry of Environment.
(12) Is access to information free of charge <sup>19</sup> or inexpensive <sup>20</sup> ?		2			Yes.
(13) Is there a secure data management system to handle		2			The Law No. 982 of May 11, 2000

<sup>19</sup>If yes, then the answer has to be “yes” – “excellent”.

<sup>20</sup>If yes, then the answer has to be “yes” – “good” or “yes” – “satisfactory” depending whether the access still remains simple despite payment or if there exist barriers to access.

commercially sensitive information and personal data in the country?					foresees the mechanisms of provision of original information with restricted access or personal and confidential information.
(14) Are there clear guidelines for authorities on how to apply commercial confidentiality requirements, including on information disclosure due to public interest?		2			Set forth by the Law No. 982 of May 11, 2000.
<b><i>Participation of the public</i></b>					
(15) Are there procedures for enabling public participation in decision making in place, e. g. have clear procedures been established for submitting of written comments or comments at hearings and for the notification of decisions?		2			Developed and approved by the Decree of the Government No. 96 of February 16, 2010 on Procedures for Ensuring Transparency of Application of Decisions.
(16) If yes, then are citizens well informed of these procedures?		2			It's desirable, that public was informed better.
(17) Have tools been developed to identify the participating public? In particular, if there is an Environmental Impact Assessment procedure in place, does it also involve public participation?		2			These provisions are entrenched in the Law on Environment (art. 3) No. 1515-XII of June 16, 1993 and in the Law on Environmental Expertise and Environmental Impact Analysis No. 851 of May 29, 1996.
(18) Are the outcomes of public participation procedures taken into account in an appropriate manner? Does public input have a tangible influence on the actual content of the decisions?		2			Yes.
(19) Have incentives been developed to allow applicants to engage in early dialogue with public?		2			Yes.
<b><i>Access to Justice</i></b>					

(20) Does the country provide for independent and impartial review bodies, including courts?		2			Non-governmental organizations, e.g. Ecolex, REC-Moldova and others.
(21) Have clear rules been developed in relation to the right of individuals and the NGOs to access judicial and other reviews for violations of the Convention and for violations of national environmental legislation?		2			Rules are defined in the above mentioned Laws on Access to Information and on Transparency of the Decision Making Process.
(22) Is the mechanism to suspend execution of a decision, which is dangerous for environment developed (e. g. preliminary injunction for the period of decision appeal)?			1		Usually, court decisions are realized independently but can be suspended in case of appeal in a judicial procedure.
(23) Have the mechanisms been established to provide the public with information on access to justice procedures?		2			The Law on Transparency of the Decision Making Process foresees such opportunity. But it is rarely applied in practice.
(24) Have assistance mechanisms been developed for the public in accessing to the procedures, for example, financial support to pay for lawyer's services if necessary?				0	No.
(25) Is there a time limit set by national legislation between the beginning of an appeal and a legal decision? If not, is the average of such a procedure acceptable?		2			Is set forth by legislation and Codes of natural resources.
<b>Country –specific questions</b>					
<b>Overall assessment:</b> Score of 0 to ... (3x number of questions)	6	38	1		<b>45 (of 75 available)</b>
<b>Per cent</b>					<b>60.0%</b>

#### Comments and clarifications:

Legislation of Republic of Moldova contain general provisions addressing ensuring participation of the general public in the process of environmental decision making related to laws, regulations, standards, licensing, plans, and programmes<sup>1</sup>. However, procedures lack detail due which it is not always possible to apply these provisions in practice.

The general public is usually proposed to participate in the process of making decisions which are related to policies, plans, and programmes in relation to environment.

Technically, the legislation of Republic of Moldova is presented in a favourable light. In practice, some improvements should be introduced, especially at the local level. Seminars, trainings, and studying for civil servants in accordance with the Aarhus Convention should be organized.

***Recommendations:***

It is recommended to organize seminars, trainings, and studying for civil servants, especially at the local level.

*(<sup>1</sup>Guide on Participation of the General Public in Decision Making, 2011)*



## Objective 7: Cooperation on development of the Shared Environmental Information System (SEIS)

Question	Yes			No	Notes
	Excellent	Adequate	Poor		
Grade	3	2	1	0	
<b><i>Implementation of the SEIS Project</i></b>					
(1) Did experts of SEIS project make country visit to identify priorities and plan of activities?	3				
If not, is it planned to organise such a visit in the nearest future?					
(2) If yes, then were representatives of the public invited to such a meeting?	3				
(3) Is a person responsible for implementation of the project in the country appointed in the Ministry/another authority?	3				
(4) Does the public know the appointed responsible person?	3				
(5) Is the information on the project available on the website of the responsible authority/Ministry?				0	
(6) Was the action plan for the country adopted or is it in the process of development?				0	
(7) Do the priorities in the plan correspond to the ones proposed by the public?					
(8) Has the interdepartmental authority on coordination within the framework of the project at the country level been created or is coordination assigned to already existing interdepartmental authority of environmental monitoring? (specify in the Notes)		2			
<b><i>System of collection/provision of environmental information and the public</i></b>					
(9) Does the unified electronic database of environmental data exist in the country?				0	
If yes, then is it available for the public on the Internet?					
(10) Does the authority responsible for collection, processing, and provision of environmental information exist in the format, which does not				0	

need additional payments and interpretation?					
(11) Does the national legislative act on regularity of preparation and adoption of the National State Of Environment Report exist? (indicate the national legislative act and frequency in the Notes)	3				The Law No.1515 of June 16, 1993 on Environment Protection. Annually.
(12) Does the actual periodicity of issuing of the report comply with requirements of the national legislation?	3				They have been published annually by 2006. The last report was prepared and published in 2011. The data in the report is for 2007-2011.
(13) Is it possible to find information on the main indicators for the last 2 years in free access in case, if the report is issued irregularly?				0	
(14) Does the Ministry engage the public to cooperation in collection and/or preparation and/or dissemination of information?		2			
<b><i>Political will to solve problems of monitoring and information management</i></b>					
(15) Does the Ministry/authorized body openly discuss the problems of the monitoring system and its maintenance?		2			
(16) Are significant funds foreseen in the budget of the country/SEPF for improvement of the technical support of the monitoring system?				0	
(17) Are measures for development of the automated information system and for providing access to this system via Internet foreseen in the Action Plan/budget?				0	
(18) Is there a decision on approval of indicators of environmental policy's efficiency (if yes, then what is the status of the document of such a decision)				0	
(19) Have those indicators already been used to assess any existing policy?				0	

(20) Has the public been engaged to the works on those indicators?			1		
<b><i>Country –specific Questions</i></b>					
<b>Overall assessment :</b> Score of 0 to ... (3x number of questions)	<i>18</i>	<i>6</i>	<i>1</i>		<b><i>25 (of 60 available)</i></b>
Per cent					<b><i>41.7%</i></b>

**Comments and clarifications:**

Moldova is not a party of SEIS. Unfortunately, nothing was done till now on building cooperation in development of the Shared Environmental Information System (SEIS). Considering its importance, this process should be sped up.

***Recommendations:***

It is recommended to engage Moldova to SEIS. More close cooperation of Ministry of Environment and National Bureau of Statistics is needed, and interdepartmental commission should work more effective, especially in the area of improvement of access to information.

# UKRAINE

## Objective 1: Strengthening cooperation with the European Union

Question	Yes			No	Notes
	Excellent	Adequate	Poor		
Grade	3	2	1	0	
<i>Policy</i>					
(1) Were negotiations on conclusion of the Association Agreement (AA) started or not? If “yes”, specify the date of the beginning of negotiations in Notes.	3				<p>Negotiations on signature of the AA were started on March 5, 2007.</p> <p>The goal of the AA which will replace the previous agreement is reorientation of relationships from “partnership and cooperation” to “political association and economic integration”.</p> <p>Both parties signed the Protocol to the Agreement on Partnership and Cooperation on the general principles of participation in the EU programmes on November 22, 2010.</p> <p>It was expected that signature of the AA will take place by the end of 2011.</p>
If “not”, what agreement regulates cooperation of the country with the EU at the present time? (additional question, should not be graded)					<p>The Agreement on Partnership and Cooperation between Ukraine and the EU was signed on July 16, 1994 and ratified on November 10, 1994 (LU No. 237-VR).</p> <p>Currently, ENP is also in effect in relation to Ukraine.</p>
(2) Was the strategic political instrument for implementation of a decision on holding negotiations on the AA adopted? If “yes”, then does it have a legal act	3				<p>The document “Agenda of Association Ukraine – EU” (AofA) was signed on November 23, 2009 to replace the Action Plan Ukraine-EU which came to an end in 2008 and was prolonged by 2009.</p>

status? For example, Agenda of Association (AofA), other (specify in Notes).					
<i>Institutional Aspects</i>					
(3) Does the Ministry of Foreign Affairs have a special unit/department on cooperation with/integration into the EU <sup>21</sup> ?	3				The MFA has a special Department of European Union.
(4) Have government officials received training on cooperation/integration with the EU?		2			Yes.
(5) Does the government provide the public with information on cooperation policy and on activities with the EU?			1		Usually, active informing of the public is insufficient. Citizens of Ukraine still do not have, or have but insufficient, understanding of topics of Ukraine's membership in the EU (perspectives, problems, and benefits). The problem is absence of clear and the rational HBSA Policy of Ukraine in relation to the EU and also absence of adequate information policy on the issues of the EU and advocacy of it in the mass media.  However, we have to mention that most general information and documents are available at the MFA website – <a href="http://www.mfa.gov.ua/mfa/ua/400.htm">http://www.mfa.gov.ua/mfa/ua/400.htm</a>
(6) Does the government monitor regularly and officially implementation of			1		Yes. The Joint Ukraine-EU approves the AA Priorities annually for the current year and then prepares report on implementation of these

<sup>21</sup>Evaluation is based on the value expert judgment of the efficiency level of authorities of this unit.

the AofA/ another Action Plan?					plans. However, these processes are not sufficiently transparent. The Government is not active in conducting the AA implementation policy as the main part of national reforms.
<b><i>Cooperation in the field of the environment</i></b>					
(7) If a policy instrument has been adopted for the AA preparation (like AofA)/Action Plan implementation, does it describe any specific actions and deadlines for achieving environmental objectives?		2			<p>11 environmental priorities are included into Chapter 7 of the AA “Other Areas for Cooperation”. The terms for fulfilling of some of those priorities (adoption of the new Environmental Policy Strategy and Action Plan) are set in the AofA and for other priorities – no.</p> <p>The Strategy (SEPS) is adopted by the Law of Ukraine on General Regulations (Strategy) of the State Environmental Policy of Ukraine by 2020 (December 21, 2010, No. 2818-VI).</p> <p>The National Environment Protection Action Plan for 2011-2015 (NEPAP)(Resolution of the CMU No. 577-r of May 25, 2011)</p> <p>The time limits for fulfilling of the objectives are set there. It is a bit too early about fulfilling of these objectives.</p>
(8) Do legislative programming instruments provide for the adoption of the legislation necessary for the implementation of the environmental objectives of the AA/Action Plan?		2			<p>Yes, however, their preparation is realized sometimes non-transparently for the public. The situation improved in recent years but opinions of the public and other interested parties often are not taken into account. This is especially the case for development of the industry AP and programmes. Significant improvement is expected in relation to implementation of NAP,</p>

					which includes extensive actions of law making in the field of adaptation.
(9) Are annual priorities/action plans on the AofA implementation being approved in the form of regulatory act?			1		In accordance with the Decree of the CMU (2010), the central authorities are obliged to prepare such plans (to be approved by the Order of the Minister) and report on their implementation. In practice, there is a big lag in these activities and plans and reports themselves are often not published.
(10) Were the consultations with the NGOs held on contents of the AofA environmental chapter?			1		Consultations were carried out but were of insular nature.
<b><i>Country-specific questions</i></b>					
<b>Overall assessment:</b> Score from 0 to ... (3x number of questions)	9	6	4		<b><i>19 of 30 available</i></b>
Per cent					<b><i>63.3%</i></b>

### **Comments and explanations:**

1. Observance of human rights, democracy norms, main freedoms, and standards of rule of law functioning are clearly set forth by conditions of the EP policy. Signature and the set AA terms directly depend on compliance of Ukraine with these conditions.

2. Actions of the HBSA and CEA in Ukraine on relationships of Ukraine as country-neighbour of the EU can be considered as ad hoc, stochastic, and purely predicted depending on domestic political situation which, due to some conditions, is also unpredictable. This complicates both prospects of possible membership of Ukraine in the EU and negotiation processes on the AA and FTZ significantly. Under current conditions issues of the environmental policy, environment protection, and sustainable development, same as trans-border environmental problems which can have negative impact on environment for both the EU and countries-participants of the EP in years and decades to come, are forcedly moved to secondary priorities set among the general issues of further development of the EU.

3. The EU viewpoint in relation to the AA (same as viewpoint of Ukraine) can be characterized as insufficiently defined, considering the history of negotiations and multiple actual changes in political, economic, and social conditions in both Ukraine and the EU itself. Considering actual domestic problems of the EU, the political and strategic cautiousness with which the EU approaches the issues of its enlargement thanks to joining of other countries, especially in relation to membership and even

association with Ukraine, becomes quite understandable. One may just hope that mechanisms and procedures of the ENP and EP which assume real and visible forms, as for example the mechanism of sectoral budget support, and are accompanied by actual measures will allow levelling this uncertainty to some extent in years to come. Particularly, one can expect that despite some crisis processes in the EU itself and also general crisis of the public administration system in Ukraine the environmental AA component and also processes of the EP and SD will obtain successful development.

4. Actions in relation to broad informing of population on benefits and risks of Ukraine's integration into the EU are absent at the state level. The EU authorities are obliged to demand firstly measures on broad informing of Ukrainian population on benefits and risks of rapprochement (within the ENP, AA, and Agreement on FTZ) and possible further integration of the country into the EU.

5. The SD issues still are not among priorities in the ENP realization and AofA implementation. Theoretically, the situation could be improved within the AofA priority on introduction of the high level political dialogue; however, this priority did not appear in the annual AofA priorities and the dialogue does not take place. Also, the SD issues may experience extensive development within the priority on trade and sustainable development; however, this dimension will not replace preparation of the full-fledged SD Strategy and activation of works of the NSDS under engagement of the main public groups.

### **Recommendations:**

1. ICS have to insist that the HBSA and CEA openly and transparently analyse and declare actual value differences which exist as of now between civil society and authorities in Ukraine, authorities and the EU, and also signs of similarity between values of civil society of Ukraine and values of the EU. This should be executed within the special state educational programme with obligatory engagement of interested parties, including the public and mass media.
2. It is necessary to firmly demand rising of priority of the EP and SD issues in relationships between Ukraine and the EU and also demands their legislative recognition in both documents regulation relationships between Ukraine and the EU and in the national highest level regulations. Particularly, the EP and SD issues have to become a topic for high level dialogue, as it is planned in AofA.



## Objective 2. Strengthening of administrative structures and procedures

Question	YES			NO	Notes
	Excellent	Adequate	Poor		
Grade	3	2	1	0	
<i>Administrative structures</i>					
<i>At the national level</i>					
(1) Is the Ministry of Environment Protection (EP) established in the country? If yes, do its authorities include all the major environmental issues in the country (e. g. water, wastes, air, biodiversity, etc.)? (Specify the precise name of the Ministry in Notes).		2			The Ministry of Ecology and Natural Resources of Ukraine (MENR) was established in 1991. Subsequently it was reformed many times. Despite the fact that MENR is now responsible for a significant range of environmental issues, it still does not have the sufficient authority and capacity for coordination of environmental activities at the interagency level. In addition to MENR the environmental issues are dealt with by: the Ministry of Agricultural Policy and Food of Ukraine, the Ministry of Economic Development and Trade of Ukraine, the Ministry of Energy and Coal Industry of Ukraine, the Ministry of Infrastructure of Ukraine, the Ministry of Emergency Situations of Ukraine, the Ministry of Education, Science, Youth and Sports of Ukraine, the Ministry of Health of Ukraine, the Ministry of Regional Development, Construction, Housing and Communal Services of Ukraine, the State Sanitary and Epidemiological Service of Ukraine, the State Agency of Land Resources of Ukraine, the State Agency for Fisheries of Ukraine, the State Nuclear Regulatory

				Inspectorate of Ukraine, the Prosecutor's General Office of Ukraine and some other CBEP.
(2) Are other bodies responsible for the EP issues established? (list in the Notes)		2		<p>Beside the Ministry of Environment, other bodies have some power in EP sphere, they include: the State Environmental Investment Agency of Ukraine; the State Water Resources Agency; the State Environmental Inspectorate; the State Service of Geology and Mineral Resources; the State Forest Resources Agency; the State Agency on Energy Efficiency and Energy Conservation, the State Sanitary and Epidemiological Service of Ukraine;.</p> <p>For the regulation of some EP issues, the interagency coordinating councils have been created (for example, the Interagency Commission on Climate Change, the Coordinating Council for the development of the national environmental network, basin councils etc.).</p>
(3) Are they subordinate bodies of the Ministry? (Summarize the subordination level in the Notes)		2		<p>According to the provisions of the Presidential Decree #1085 of 09.12.2010 “On the optimization of the system of central bodies of executive power”, the State Environmental Investment Agency, the State Water Resources Agency, the State Service of Geology and Mineral Resources, the State Environmental Inspectorate are the central authorities, the activities of which are directed and coordinated by the CMU, through the Minister of Ecology and Natural Resources.</p>

				<p>The State Forest Resources Agency, the State Agency of Land Resources of Ukraine, the State Agency for Fisheries of Ukraine – through the Minister of Agricultural Policy and Food.</p> <p>The State Agency on Energy Efficiency and Energy Conservation – through the First Vice Prime Minister - Minister of Economic Development and Trade.</p> <p>The State Sanitary and Epidemiological Service of Ukraine – through the Minister of Health.</p> <p>The Ministry of Emergency Situations of Ukraine, the State Nuclear Regulatory Inspectorate of Ukraine the same as MENR are coordinated by the CMU.</p> <p>The interagency national councils are coordinated by the CMU or certain specially authorized ministries and departments of Ukraine.</p> <p>The Basin Councils are coordinated by the State Water Resources Agency through the Basin Water Resources Departments (BWRD).</p>
(4) Do they duplicate functions of the Ministry?		2		<p>Many functions are mainly delegated by MENR to other bodies coordinated by the Minister of Ecology and Natural Resources.</p> <p>Some CBEP related to the EP poorly coordinate (or do not coordinate their activities) with the Ministry of Ecology and Natural Resources.</p> <p>Some EP functions may overlap (e.g., with MES,</p>

					MOH, MOEYS etc.).
(5) Has the State EP Fund been created in the country?		2			The State EP Fund has been created. However, its formation and use are not always well-planned and transparent.
(6) Have its financial resources been increased during the last five years? (specify dynamics of funds for 2007-2011 in the Notes)		2			Increased irregularly.
(7) If increased, then was such increase related to indexation of rates of the environmental charges? (in what year did it take place?)			1		The order of payment of the environmental charges is determined by the provisions of the Tax Code adopted by the VRU (# 2755 of 02.12.2010). Currently there is no indexation of rates. The responsibility for indexation is transferred to executive authorities.  The revision of the environmental payments rates is planned under the new Strategy and NAP of the State Environmental Policy.
(8) If yes, was it related to improvement of control of the enterprises' activities?				0	No.
(9) Is consolidation and prioritization of the SEPF (State Environmental Protection Fund) targeted financing to solve the acute environmental problems observed?			1		At the planning level, in the first NAP adopted in May 2011
(10) Is the State Environmental Inspection established in the country?		2			The State Environmental Inspection was established and reformed into a separate central executive body, but the territorial branches were enlarged, which weakened the overall ability of rapid response. It remains institutionally weak

(11) Is it an independent authority within the EP system?		2		The activity of the State Environmental Inspection is directed and coordinated by the CMU, through the Minister of Ecology and Natural Resources.
<i>At the regional/local level</i>				
(12) Does the structure of the Ministry include its territorial branches? (if yes, specify the administrative coverage in the Notes, for example oblast level branches)			1	<p>27 territorial Departments, including Oblast Departments, the Republican Committee of the ARC on Environmental Protection (has a status of the Department), as well as individual Departments in Sevastopol and Kiev.</p> <p>In the course of 2010-2011 administrative reform the territorial units of MENR were liquidated in the oblasts, followed by the re-subordination to the local administrations. This will result in further institutional weakening in 2012 of the Ministry.</p>
(13) Does the State Environmental Inspection have its territorial offices? (if yes, specify the administrative coverage in the Notes, for example district-oblast-region level branches)		2		<p>The existence of the territorial offices of the State Environmental Inspection is formalized by the Resolution of the Cabinet of Ministers #995 of September 14, 2011 “On creation of the territorial offices of the State Environmental Inspection”.</p> <p>The territorial offices are established based on the pre-existing ones and include the State Environmental Inspection of the AR of Crimea, Inspections in all regions of Ukraine, Kiev and Sevastopol cities, as well as State Marine Environmental Inspections – of the North-West region of the Black Sea, Azov Sea and the Azov-Black Sea.</p> <p>The Rayon State</p>

					Environmental Inspections were abolished in the mid-2000s.
(14) Do regional/local authorities have authority in the field of environment protection? Is there clear division of competence between the national and regional/local authorities?			1		<p>The responsibilities and powers of oblast, rayon and local authorities are defined in the Law of Ukraine “On Local State Administrations” # 586-XIV (of April 9, 1999), the Law of Ukraine “On Local Governance” #280 (of May 21, 1997).</p> <p>The individual responsibilities and powers are defined by the provisions of various other regulations of Ukraine. It should be noted that the territorial (oblast) MENR Departments are also subordinate to the OSA. Most often, OSA have a significant impact on the decisions taken on the issues relating to EP and local ecological policy.</p> <p>It may be considered that there is no clear division of competence in the field of environment protection at the local level. Some functions are duplicated. In one way or another, the EP function at the local level is assigned to local governments. In practice, these functions are often not realized, for the sake of industry or commercial interests.</p>
(15) Is the SEPF distributed to the oblast/local level? (if yes, specify then levels, shares of the national-oblast-local level, and also spending units)		2			<p>The percentage is currently difficult to determine. There is no clear regulation as for those responsible for allocation of the SEPF funds – the regulations state “The Ministry of Ecology and Natural Resources and others ...”. The spending units are determined mainly</p>

					in the target APs and programmes. In individual cases the spending unit - MENR allocates funds to carry out activities at the oblast level (e.g., removal of obsolete pesticides).
<b><i>Strategic planning</i></b>					
(16) Is there an environment protection strategy in place or planned to be adopted? If yes, then is it of a good quality?	3				The Strategy (EPS) was adopted by the Law of Ukraine “On the main provisions of the (strategy) of the State Environmental Policy of Ukraine till 2020 (December 21, 2010 (#2818-VI).
(17) Are the tasks of institutional strengthening of the EP management system included into the strategy?	3				It is included in Objective 4 of EPS “Integration of environmental policy and improvement of the integrated environmental management”
(18) Have steps been taken to implement the strategy?	3				The National Action Plan for Environmental Protection for 2011-2015 was developed and approved by the Regulation of the CMU. (EPNAP), (Resolution of the CMU #577-r of May 25, 2011.
(19) Is the strategy being revised regularly (e.g. once in 5 years)?		2			The Concept envisaged regular revision; however the Strategy lacks the relevant mechanism. The revision shall take place in connection with the adoption in 2016 of the second NAP.
(20) Are there sector-specific strategies to support the overall strategy?			1		The horizontal and vertical environmental integration envisages development of environmental policies across sectors and administrative units.
(21) Are there procedures, such as consultations between the ministries/authorities in place?		2			There are procedures for the interagency coordination of high-level EP regulations (Laws of Ukraine, CMU Resolutions etc.). For this purpose the specifically

				<p>authorized central bodies of executive power develop and send for agreement to the supreme authorities the relevant draft regulations.</p> <p>For the coordinated decision-making, there are also various interagency working groups, commissions, national coordinating councils, basin councils etc.</p>
(22) If yes, is the role of the Ministry of Environment and other environmental authorities to coordinate within these procedures?			1	<p>Yes, but often only formally – for example, MENR could not defend in 2010 the environmental assessment and preserve in full the EIA as well as public participation in the development and adoption of the Law on urban planning.</p>
(23) Are there formal procedures to facilitate coordination between the authorities and other relevant actors (civil society, scientific community)?		2		<p>Exist in the form of approved by authorities various Regulations on the interagency councils, commissions etc. at different levels and with different status (from the Laws of Ukraine to the Orders in the ministries and departments).</p> <p>The stakeholders, including the general public, rely, on the one hand, on the Aarhus Convention and its procedures (insufficient, approved in a shortened form by the Orders of the Minister of 2003), and on the other – on the Resolution of the CMU #996 of 2010 on the procedure for public consultations, according to which the community councils are formed and attached to each central body of executive power and OSA, serving the purpose of consultation with the authorities.</p>



					Often, there is the imitation of consultative processes with the stakeholders.
(24) Has cooperation between different stakeholders improved from the moment of the beginning of negotiations on the AA?		2			<p>As for the mutual information provision and the dialogue on implementation of the priorities of the AA, mainly due to the active measures of the Ukrainian authorities, as well as international requirements, it has improved.</p> <p>As for the decision-making, the cooperation on EP has much improved. As a rule, the supreme authorities and the authorized CBEP make decisions independently and often not transparent to the public and stakeholders.</p> <p>Yet, during 2010-2011, MENR prepared twice a comparative table to incorporate the public comments in the Strategy and the NAP, with explanations why certain proposals were/were not taken into account and how. The public thinks it is a significant step forward.</p>
<i>Country-specific questions</i>					
<b>Overall assessment:</b> Score from 0 to ... (3x number of questions)	8	28	7		<b>43 out 72 possible</b>
Per cent					<b>59.7%</b>

### Comments and explanations:

#### 1. The new active phase of the implementation of administrative reform in Ukraine.

The new phase of the public administration reform in Ukraine began with the development and adoption of the Presidential Decree #1085 of December 9, 2010 “On the optimization of the system of central bodies of executive power”. This Decree was developed and adopted in order to optimize the system of central bodies of executive power, eliminate the duplication of their powers, ensure the downsizing of the administrative apparatus and the cost of its maintenance, making public

administration more efficient. A significant number of ministries and departments have been enlarged or reorganized.

The main part of the new provisions on CBEP in the field of EP was adopted in April 2011 by the relevant Decrees of the President of Ukraine. Moreover, some CBEP that were directly or closely related to the EP were withdrawn from the sphere of influence of MENR, for example, the State Forest Resources Agency of Ukraine (formerly – the State Forestry Committee), the State Hydrometeorological Service of Ukraine (previously - the State Hydrometeorological Committee), the State Agency of Land Resources of Ukraine (previously – the State Land Committee), etc. Some of the important for the EP CBEP were liquidated, such as the State Agency of Reserves of Ukraine. Some CBEP, for example, the State Hydrometeorological Service of Ukraine, are still in the process of reform.

It may be noted that it is too early to assess the consequences of this administrative reform objectively, as well as the fact that it is not fully completed. However, according to the preliminary data, it is basically only decorative in nature and does not improve the system of governance in the field of EP, does not change its essence and does not make it more effective. In particular, it is still quite far from the priority of the Flagship initiative on proper environmental management. The environmental component of the national development has not yet become as much a priority as the economic one. Often the price of the “economic” well-being (which in the present conditions may not always meet the public interests, but represent the industry, agency or private ones) - is, on the contrary, a significant degradation of the environment, health and welfare of the population.

Also, during the past 10 years, in Ukraine in the sphere of compliance with the environmental legislation the so-called legal “nihilism” was increasing, despite the fact that the environmental legislation of Ukraine in the early 2000s was one of the best in Europe. In the field of public planning and management the industrial, sectoral approach still dominates. In fact, there is no comprehensive system of monitoring, analysis, planning, and, accordingly, management, that has the worst effect on the state of environment and the EP. The necessary and sufficient material resources, staffing policy and funding of environmental protection measures leave much to be desired.

The environmental safety issues, unfortunately, are not included in the range of priority issues of the national security of Ukraine, along with, for example, the issues related to territorial, economic and energy security.

At the same time, Ukraine faces a considerable amount of environmental risks associated with the resource-centric economy, focus on the development of environmentally “dirty” industries (metallurgy, chemical industry, mining, and energy), low level of EP management. This can be complemented by the presence of natural risks in some regions with complex (unstable) natural conditions, as well as various technogenic risks.

**2. The Ministry of Ecology and Natural Resources of Ukraine (MENR) was created** in the early years of Ukraine's independence. Subsequently it was reformed many times (for example, in 2000, 2002, 2006, 2007, 2008, 2011). The last time it was reformed by the Presidential Decree #452 of April 13, 2011.

The MENR of Ukraine controls scientific institutions, establishments and enterprises and delegates some of its functions to them. Also, many of the MENR functions are delegated to the individual CBEP and their implementation is coordinated by the CMU through the Minister of Ecology and Natural Resources (see below). However, the MENR of Ukraine often cannot provide the necessary and sufficient influence over the decisions made by these CBEP. Moreover, the MENR of Ukraine

cannot directly influence the EP decisions if they are approved by CBEP not coordinated by the Ministry.

The MENR of Ukraine also has a number of subordinate biosphere reserves, national parks and other institutions of the natural reserve fund of Ukraine. Unfortunately, the existing before the 2011 State Agency of Reserves of Ukraine was liquidated. Now, the management of the protected areas of MENR of Ukraine is performed only at the level of special Department, established in May 2011.

The MENR of Ukraine has 27 territorial offices (departments), including the Republican Committee on Environmental Protection of the AR of Crimea, as well as individual departments in Sevastopol and Kiev. However, the oblast authorities are also subordinate to OSA and in cities to CA, and must coordinate the actions with them in order to fulfil own functions, which often leads to intractable controversies that adversely affect the results in the field of EP, efficient use of natural resources and sustainable development.

Currently, the new provisions on the territorial bodies of MENR, which should be developed in connection with its recent reorganization, have not yet been approved. Since the beginning of 2012 the MENR territorial offices will be fully transferred to the jurisdiction of Oblast State Administrations. The environmental NGOs are very negative about that, because, in their opinion, it would further weaken the institutional capacity of MENR, as the principal body responsible for the EP in the country.

The interference of political forces in the CBEP and local authorities' activities, primarily on personnel matters, gradually led to the de-professionalization of many of them, and these changes affected even the middle and lower management level.

**3. The State Environmental Inspection of Ukraine** was reorganized by the Presidential Decree #454 of April 13, 2011 to ensure the implementation of the state policy on the state supervision (control) in the field of environmental protection, rational use, restoration and protection of natural resources.

The State Inspection previously had oblast and rayon territorial bodies, as well as marine state environmental inspections. However, rayon departments were liquidated earlier - long before the last administrative reform. Until recently, each administrative region of Ukraine had only a representative or a few representatives of the oblast inspection, the activity of which spread to several rayons of the oblast. The existence of the territorial bodies of State Environmental Inspection is formalized by the Resolution of the CMU # 995 of September 14, 2011 "On creation of the territorial bodies of the State Environmental Inspection". The territorial bodies were established based on the pre-existing ones, and include the State Environmental Inspection in the AR of Crimea, Inspections in 24 oblasts of Ukraine, in Kiev and Sevastopol, as well as State Marine Environmental Inspections - Azov-Black Sea, Azov Sea and the North-Western Black Sea region.

It can be noted that the central apparatus of the State Environmental Inspection as well as its territorial bodies today are also institutionally weak. First of all, it refers to the lack of personnel, lack of the qualified staff, insufficient technical and financial support, which greatly complicates the proper execution of Inspection functions. As a rule, even those regulations of the Inspection that relate to the identified documented violations of environmental laws, are not satisfied by the violators. Also, because of its institutional weakness, the Inspection is not always able to properly monitor the compliance with its own regulations.

**4. The State Agency for Water Resources of Ukraine** was reorganized by the Presidential Decree #453 of April 13, 2011 to ensure the implementation of the state policy in the sphere of water management and land development, use and renewal of surface water.

The appropriate (Environmentally balanced) management of water resources is extremely important in the overall system of EP. In this regard it can be noted that the functions of the State Agency for Water Resources of Ukraine, unfortunately, are aimed primarily at addressing only the issues of sectoral water use, irrigation and drinking water supply, but they are poorly designed to address the issues of protection and renewal of water resources, particularly through the proper economic use of basins and maximal preservation of adjacent to the rivers natural landscapes, although the preservation and renewal of water resources through conservation is one of the main priorities of the Water Framework Directive (WFD). The conservation of the adjacent to the rivers natural landscapes is clearly required under the provisions of the Water Code of Ukraine (WCU). In particular, the State Agency for Water Resources of Ukraine is responsible for compliance with the regime of riparian water protection zones and coastal protective strips. However, even this function is practically failed due to the specific resource and institutional weakness of the Agency and its territorial bodies.

**5. The State Forest Resources Agency of Ukraine** was established (reformed) by the Decree of the President of Ukraine #458 of April 13, 2011 to ensure the implementation of the state policy in the field of forestry and hunting. It was previously coordinated by the CMU through the Minister of Environmental Protection of Ukraine.

This Agency, due to the numerous disputes between it and the Ministry of Ecology, in 2011 was left subordinate to the CMU, but with coordination through the Minister of Agricultural Policy and Food of Ukraine. These disputes are associated mainly with the diametrically opposing views on the Forest Fund of Ukraine. The Agency and its territorial offices consider the forest mainly as a source of timber, a resource that can be sold. MENR considers the forest fund a reserve that can be used to increase the area of protected zones, improve the capacity for preservation of biodiversity, as well as for the development of the national ecological network. Since the mid-2000s in the Agency there has occurred a tendency not to agree the justification for the inclusion of valuable forest lands in the protected areas, even if the removal of these areas is not envisaged. Moreover, the Agency officials often initiate the review by the state authorities of different levels of the exclusion of certain forested areas from the protected zones for own benefit, and even the liquidation of the protected objects, and send the relevant applications. Another negative trend is the illegal and not scientifically substantiated afforestation of the few virgin steppe land areas remaining in Ukraine. The change in the purpose of land could be backdated, when the territory is already afforested.

In support of the above it may be noted that the work of the Agency is also under the close attention of the control authorities. In particular, the Main Auditing Department published in 2011 the results of the state audit of the implementation of budget programs in the system of the Agency (State Forestry Committee) of Ukraine for 2008-2011. The findings indicated the low effectiveness of the implementation of budget programs, the inefficient use of significant budget funds. The Main Auditing Department recommended the CMU and the State Forest Resources Agency of Ukraine to take measures to immediately address the deficiencies identified in the management of forest resources.

#### **6. Authority of the local governments in the field of EP and SD.**

In accordance with the Law of Ukraine “On Local State Authorities” #586-XIV of April 9, 1999, the main tasks of local state authorities (LSA), in particular, include (Article 2, par. 3) the implementation of the national and regional socio-economic and cultural development programmes, EP programmes.

In particular, LSA have quite broad powers in the field of EP and SD (Article 13, par. 2, 5, 6, 7, Art. 16, par. 3, 4, 5, 6, 9, Articles 17, 20, 21, 22, par. 9-12, Art. 25, par. 2 of Art. 26).

Under the Law of Ukraine “On Local Governance” # 280 of May 21, 1997 the broad powers in the field of EP and SD also belong to the local councils and their executive bodies (Article 26, par. 22, 23-25, 34, 36 - 38, 42, 44, 45, 52, 55, Articles 27, 31, 33, 38).

Some of the local governments’ powers in the field of EP are regulated by other Laws of Ukraine, related to EP. For example, the Law of Ukraine “On Environmental Networks” (1864-IV of 24.06.004) provides for certain duties and powers in the sphere of development, preservation and management of regional (local) ecological networks etc.

At first glance it may seem that such an impressive list of local governments’ powers in the field of EP and SD is designed to complement the authority of CBEP and their territorial bodies. However, in practice, many of these powers are impossible or extremely difficult to implement without certain agreements between the LSA (local governments) and CBEP, which adversely affects the outcome, complicates and confuses the procedures of making and implementing decisions.

As for the delegated authority, that is, the authority of the state bodies that can be transferred to local self-government, it should be noted that in the end no one may turn to be responsible for the final result. Moreover, numerous local authorities most often lack the institutional, human and financial resources for proper implementation of these powers.

### **7. About the State Environmental Protection Fund (SEPF).**

The system of Environmental Funds in Ukraine was established in 1991 under the Law “On Environmental Protection” (#1264-XII of 25 June 1991). They were established at three levels - national (state), the Autonomous Republic of Crimea, local - oblasts, Kiev and Sevastopol cities, and other localities. In 1998 the Funds were included in the State Budget and the respective local budgets. The main sources of income for them are the environmental payments (previously – charges for environmental pollution) and the penalties for violating the environmental laws. It is envisaged that the resources of these Funds should be used to address various environmental problems. The Funds are not legal entities; they do not have their own administrative structures and personnel.

The legislative regulation of SEPF is based on the Regulation on SEPF adopted by the Resolution of the Cabinet of Ministers of Ukraine #634 of May 7, 1998 (as amended by the Resolution of the Cabinet of Ministers #462 of 07.04.2006), as well as the Resolutions of the Cabinet of Ministers: #163 of February 28, 2011, # 164 of 28 February 2011, #303, #588 of June 6, 2011 etc.

The dynamics of proceeds to the state environmental funds of all levels, which was published for the period of 2000 - 2007, shows a constant increase in the inflows to both the SEPF and the local funds. The inflows of SEPF alone, by years are as follows (mln.UAH): 2003 – 81,0; 2004 – 95,9; 2005 – 124,5; 2006– 516,8; 2007 – 707,2.

The environmental activities at the expense of SEPF in 2010 were carried out by the budget programs. The total expenditure amounted to: 58587.2 thous. UAH, given the planned amount of 182828.4 thous. UAH. The significant underutilization of SEPF funds was observed by the items: “logistics”, “payment for services”, “research and development”, “investment”. Some of the activities were not implemented as the complete implementation of research projects required more time, there was no coordination by the Ministry of Economy of proposals for harmonizing the public procurement from one participant, the tender on some equipment was cancelled as the price of the lucrative offer exceeded the envisaged amount, and so on.

It is obvious that the existing economic mechanism does not provide for the resolution of the accumulated environmental problems due to the inconsistency of the level of environmental charges (fees and penalties for violations of the environmental laws) the actual environmental damages caused and the volume of necessary expenditures for the improvement of ecological situation in the country.

The Ministry of Economic Development presented the estimated cost figures of SEPF till 2014, the spending unit for which shall be the MENR of Ukraine. In 2012, 2013, 2014 the costs shall amount to, respectively: 609215.10 thous. UAH, 559786.40 thous. UAH, 572719.10 thous. UAH.

A very important issue is the reform of the system of public procurement performed at the cost of SEPF as the timeframes of funds transfer for the execution of work are often not observed and the financial and narrative reports for the state orders' contractors are quite strict. In these cases the contractors primarily focus on the strict observance of rules and terms of reporting, so the quality of work is often below the reasonably possible.

**8. The order of payment of the environmental charges** today is regulated by the provisions of the new Tax Code of Ukraine (TCU), adopted on December 2, 2010 (#2755). According to it, now there is no mechanism for indexation of the environmental tax rates (previously, the environmental pollution charges). The revision of rates of the environmental payments is planned under the new Strategy and NAP of the state environmental policy.

#### **Recommendations:**

1. At the level of the President of Ukraine, the Cabinet of Ministers, the Verkhovna Rada, NSDC it is extremely necessary to strengthen the priority of the environmental policy and the environmental dimension of sustainable development, to ensure the transition from narrow departmental planning to the integrated planning of national development. This process is intended to be supported by the already adopted in 2011 AA - SNEP and NEAP, as well as RAP and MAP, which should be developed and implemented on their basis.
2. It can be assumed that for the timely and quality performance of SNEP goals, Ukraine still needs substantial reform of public administration in the environmental field. This implies new structural changes, as well as changes in the collection, storage, processing, analysis and dissemination of environmental information for decision-making among all the stakeholders.
3. There is a need for mandatory inclusion of environmental security and sustainable development in the list of priority issues of the national security of Ukraine, along with issues of economic, political, energy, or territorial security. It is also necessary for the Minister of Ecology and Natural Resources of Ukraine to be a permanent member of the National Security and Defence Council of Ukraine (NSDCU).
4. At the level of CBEP related to the EP, it is necessary to initiate and achieve a clear and statutory separation of administrative, economic and control functions, which is partly reflected in the provisions of SNEP.
5. It is necessary to prevent a complete re-subordination of the regional bodies of MENR of Ukraine to LSA, and conversely, to return to the Provision on the Ministry of Ecology the paragraph on the territorial bodies in order to provide for their considerable independence from LSA.
6. There is a need in a significant simplification of the procedure of SEPF funds allocation, as well as in the tightening of state and public control of their intended use.
7. It is necessary to recommend to the EU to pay particular attention to monitoring of the compliance with the procedures for public participation in decision-making on EP and SD.

### Objective 3: Development of strategies, plans, and programmes in the environment protection field

Question	Yes			No	Notes
	Excellent	Adequate	Poor		
Grade	3	2	1	0	
<b><i>Preparation and adoption</i></b>					
(1) Have relevant strategies, plans, and programmes been prepared from the moment of the Action Plan adoption?	3				The Strategy (Law of Ukraine on Main General Principles (of the Strategy) of the State Environmental Policy of Ukraine by 2020 No. 2818-VI of December 21, 2010) and NEPAP (Regulation of the CMU No. 577-r of May 25, 2011) were adopted at the national level.
(2) Have these strategies, plans or programmes been officially adopted at the level of Parliament/Government ?	3				Yes.
<b><i>Process</i></b>					
(3) Did the ministries play the active role in preparation of strategies, plans or programmes in different sectors, e. g. transport, industry, energy, healthcare? Does the Ministry of Environment play the leading role in their development?			1		Yes. The Ministry of Environment did not as of now. The leading role is played by industry ministries and institutions. Nevertheless, the Law on the strategy of environmental policy is aimed at strengthening the coordinating role of the Ministry of Environment, while other ministries and territorial bodies have to develop their environmental programmes under methodological support of the Ministry of Environment.
(4) Did the local and regional authorities play the active role in preparation of strategies,			1		No in most of the cases.

plans, and programmes?					
(5) Did civil society play an active role in different sectors (environmental NGOs, business & industry, others)?	3				The environmental NGOs are very active and try to participate / follow preparation, adoption, and implementation of strategies, plans, and programmes.
<b>Content</b>					
(6) Do newly prepared strategies/plans contain elements of approximation to the EU environmental policy?	3				Yes.
(7) Do plans and programmes clearly define division of responsibility for their implementation?		2			In general yes.
(8) Do the plans and programmes contain clear and realistic financial plan, which define resources, requirements, and ways of implementation?			1		Except for the Strategy and NAP – no as of now. But NAP has been adopted recently. Therefore, there is no experience of its implementation in practice.
(9) Do the strategies, plans, and programs define priorities in actions?		2			The SEPS yes, while other programmes prepared earlier yes but to much smaller extent.
(10) Do strategies, plans and programs (SPP) contain measurable targets?		2			The SEPS yes, while other programmes prepared earlier yes but to much smaller extent.
(11) Do SPP contain indicators?		2			The SEPS yes, while other programmes prepared earlier no.
(12) Do SPP contain monitoring and reporting mechanisms?		2			The SEPS yes, while other programmes prepared earlier no.
(13) Do the strategies, plans, and programmes foresee monitoring, evaluation and reporting mechanisms?		2			The SEPS yes, while other programmes prepared earlier no.
<b>Implementation</b>					
(14) Have any steps been taken to implement the strategies, plans and programmes?		2			The SEPS and NAP yes but for other programmes prepared earlier the situation varies widely, in



					general – not sufficient.
<i>Country-specific questions</i>					
<b>Overall assessment:</b> Score from 0 to 36 (3x number of questions)	<i>12</i>	<i>14</i>	<i>3</i>		<i>29 of 42 available</i>
Per cent					<i>69 %</i>

### **Recommendations:**

1. Consistent implementation of the SEP Strategy and measures of NAP under active participation of the public is needed.

2. Enhanced work on the Strategy's performance indicators forming its integrated part is needed aiming at changing efficiency of environment protection activities on the basis of NAP with the help of increase in quality of reporting and building capacity to comparison.

3. It is necessary to improve informing of the public on implementation of the Strategy and NAP on the side of the Ministry.

4. Development and broad public discussion and adoption of the Sustainable Development Concept should be considered as important and necessary consequent step. Then the National Sustainable Development Strategy has to be developed. Development (starting from the earlier stages), implementation, and control of realization of the SEPS, NEPAP, and SDCS have to be executed with compulsory engagement of the public and specialized NGOs.

**Objective 4: Ensuring integration of environmental aspects into other policy sectors (promoting sustainable development)**

Question	Yes			No	Notes
	Excellent	Adequate	Poor		
Grade	3	2	1	0	
<i>Integration of environment into sectoral policies</i>					
(1) Is environmental requirements' (policy's) integration into other policy spheres set legally as compulsory?			1		The Strategy (Law of Ukraine on Main General Principles (of the Strategy) of the State Environmental Policy of Ukraine by 2020 No. 2818-VI of December 21, 2010) and NEPAP (Regulation of the CMU No. 577-r of May 25, 2011), in which such legislative consolidation is planned, were adopted at the national level.
(2) If not, then is such a decision at the preparatory stage now?	3				
(3) Strategies, plans, and programmes: has a common policy been adopted?			1		The Strategy and NAP according to which the sectoral and regional EP programmes have to be developed by the end of 2011. It seems the implementation will be postponed to the first quarter of 2012.
<i>Preparation of the National Strategy</i>					
(4) Has the national sustainable development strategy been adopted since the signing of the Action Plan?				0	The National Sustainable Development Strategy (NSDS) in Ukraine, despite some attempts to develop and adopt it from the beginning of 2000 <sup>th</sup> , was not developed in due form.
(5) If no, then is such a strategy at the preparatory stage now?			1		The SD Concept is being developed once again. In accordance with Order of the CMU No. 32519/1/1-10 of June 15, 2010 the Ministry of Science, Education, Youth and Sports of Ukraine is appointed as responsible for the SD

					Concept development. The public is not engaged in these activities.
(6) Was the national environmental policy strategy adopted from the moment of the Action Plan signature?	3				Yes.
If not, then is such a strategy at the preparatory stage now?					-
<b>Interdepartmental governance bodies</b>					
(7) Has the National Sustainable Development Council (NSDC) been created in the country?			1		The National SD Council had been reformed several times. Worktowards preparation of the key strategic SD documents was restarted with adoption of the Decree of the CMU No. 997 of September 16, 2009 on Establishment of the National Sustainable Development Council of Ukraine and then with adoption of the Decree of the CMU No. 723 of August 25, 2010 on Amendments to the Decree of the CMU of September 16, 2009 No. 997 which set forth the new Regulation on the National SD Council and its new personnel composition. The Prime Minister of Ukraine is the Head of the Council. The public is not engaged into the NSDS activities after the last change of government.
(8) Are the representatives of nine major society groups represented in it?				0	No.
(9) Are the representatives of environmental NGOs represented in it?			1		Yes. Representatives of Ukrainian Association of Nature Protection (UANP), since its Head is the NSDS Secretary.
(10) Are the activities of the NSDC transparent and are they				0	No.

properly communicated?					
(11) Does the NSDC consider issues related to integration of environmental policy?			1		The main tasks are the following: studying of situation with the state policy in the field of ensuring the SD; assessment of situation with establishment of economic, social, environmental, and other preconditions for transfer to the SD of Ukraine; analysis and discussion of problematic issues and also development and submission to the CMU of provisions on resolving of those issues; etc.
(12) Were the general committees created or other measures taken towards integration of environment into the sectoral policy?		2			<p>Different institutions were created at different times. For example, the Interdepartmental Commission for Monitoring of Environment (Decree of the CMU No. 1551 of November 17, 2001) and oblast interdepartmental commissions; the Interdepartmental Working Group (IWG) on consideration of the targeted green investment projects (Kyoto Protocol); the IWG on ensuring enforcement of decisions of the Aarhus Convention Parties.</p> <p>It is planned to prepare the CMU regulation under with the interdepartmental commission “Environment for Ukraine” should be created under participation of the interested parties by the</p>

					end of 2011.  Creation of the Joint Group on Monitoring of Implementation of the Agreement between Ukraine and the EU on budget support of realization of the State Environmental Policy Strategy which contains representatives of ministries and institutions activities of which is related to impact on the environment.
<b><i>Some instruments of the environmental policy integration</i></b>					
(13) Has legislation on the obligatory carrying out of the EIA (SEA) in relation to policies, strategies, plans, and programmes been adopted?			1		It is planned in the Strategy and NAP.
If yes, then are there positive practices of the EIA (SEA) carrying out?				0	-
(14) If not, then is such legislation at the preparatory stage now?		2			Yes.
(15) Is the law on environmental audit adopted?	3				The LU on Environmental Audit of June 24, 2004 No. 1862-IV
If not, then is such a law at the preparatory stage now?					-
(16) Have new economic instruments been established to stimulate more efficient environmental management on enterprises since signing of the Action Plan? If yes, provide an example in the Notes.			1		They are planned in the Strategy and NAP.
<b><i>Process</i></b>					
(17) Did ministries in different sectors play an active role in preparation of the SD strategy?			1		The executive authorities disapproved the most recent version of the Draft NSDS after consideration.
(18) Did representatives of civil society play an active role in different sectors (environmental NGOs, manufacturing industry,			1		The NGOs tried to participate in assessment of the Draft NSDS.

others)?					
(19) Have the text proposals of the public been taken into account in the final document?				0	
(20) Did Ministries play an active role in preparation of the environmental policy strategy in different sectors?		2			Yes, coordinated approvals and collection of comments went through several cycles.
(21) Did representatives of civil society in different sectors (environmental NGOs, industry, others) play an active role?	3				Yes, they even achieved inclusion of majority of comments into the final version.
(22) Have the text proposals of the public been taken into account in the final document?	3				Yes, the majority of comments were taken into account.
<b>Implementation</b>					
(23) If the SD strategy was adopted, then have steps been taken to implement its actions?				0	The NSDS is not adopted and not developed.
(24) If the environmental policy strategy was adopted, then have the steps been taken to implement its actions?	3				NEPAP is developed (under participation of the public) and adopted. The procedures of preparation to realization of the sectoral budget support of the EU were carried out.
<b>Country-specific questions</b>					
<b>Overall assessment:</b> Score from 0 to ... (3x number of questions)	18	6	10		<b>(34 of 72 available)</b>
Per cent					<b>47.2%</b>

### Comments and explanations:

Recent state environmental policy of Ukraine as a part of reforms which are being realized in the process of association with the European Union is defined by the Law of Ukraine on General Regulations (Strategy) of the State Environmental Policy of Ukraine by 2020 (adopted on December 21, 2010) and also by the National Environment Protection Action Plan (NAP) for 2011-2015 (approved by Regulation of the CMU of May 25, 2011).

The sense of this reform is in integration of environmental policy into policies of socio-economic development at the national, regional, oblast, and local level and also into policies of economic sector development aiming at more efficient environment protection and rational utilization of natural resources of Ukraine following the international standards.

According to the Strategy, the goal of the national environmental policy is stabilization and improvement of situation with environment in Ukraine by way of integration of environmental policy

into socio-economic development of Ukraine to ensure safe environment for life and health of population, introduction of environmentally balanced system of management of natural resources and conservation of natural ecosystems.

Objective 4. "Integration of Environmental Policy and Improvement of the System of Integrated Environmental Management of the Strategy and NAP" foresees realization of the following major tasks:

- development and implementation of legal enforcement of compulsoriness of environmental policy integration into other documents containing political and/or programme foundations of the state, industry (sectoral), regional, and local development by 2012;
- institutional reconstruction and enhancing efficiency of public administration in environment protection area;
- establishment of environmental management systems and development of the state targeted programmes on ecologization of certain national economy industries. These programmes should foresee technical re-equipment, introduction of energy efficient and resource saving technologies, and non-waste and environmentally safe technological processes;

In other words, according to the Strategy and NAP, different ministries and institutions, oblast and local authorities, local self-government authorities, business, public, scientists, and all the interested parties are engaged into the process of the most recent environmental policy implementation. Therefore, The Ministry of Environment and Natural Resources prepared methodological recommendations for the main institutions responsible for implementation of the Strategy and NAP.

Fulfilment of the Strategy objectives will be realized in two stages:

it is proposed to ensure stabilization of environmental situation, slowing down of growth rates of the man-made burden on environment, creation of conditions for increase in level of environmental safety of population, the beginning of transfer to environment protection standards of the European Union, development of relevant legal acts, enhancement of public activities in the field of environment protection by 2015;

it is expected to realize gradual delimitation of functions in environment protection and economic activities on utilization of natural resources, implementation of European environmental regulations and standards, ecosystem planning, introduction of mostly economic mechanisms of stimulation of structural transformations oriented on environment, obtaining balance between socio-economic needs and tasks in the field of conservation of natural environment, ensure development of environmentally efficient partnership between the state, economic entities, and public, and wide spreading of environmental knowledge during 2016-2020.

During the first stage it is planned to develop and implement medium-term regional environmental action plans as the major instrument of the national environmental policy realization at the regional level.

Major tasks by 2015:

- development of methodology and preparation of the local environmental action plans;
- legislative support of transfer from socio-economic planning to environmental-socio-economic planning of development of regions and urban areas;
- develop integrated regional and local programmes directed at solving of the following topical environmental problems:
  - optimization of planning of green zones' building and development;
  - increase in quality of atmospheric air and decrease in level of noise bu way of

- transportation flows optimization and stationary source emissions minimization;
- minimization of education, sorting, processing and safe utilization or burial of wastes;
- on increase of quality and ensuring access to drinking water.

Major tasks by 2020:

- introduction of environmental component into the strategic documents on development of urban areas and regions, taking into account of the Olborg Charter requirements during the evaluation of regional programmes of social and economic development, revision of the general work plans of development of cities by 2020 aiming at implementation of provisions of the mentioned international documents;
- development of partnership “the public-authorities-business” at the regional level aiming at ensuring social and environmental standards of safe living of population by 2020;
- decrease in negative impact of urbanization process on environment, increase in indicators of planting of greenery and landscaped areas in general use, decrease the level of contamination of atmospheric air, water bodies, level of noise and electromagnetic pollution.

**At the industry level**, it is planned to introduce environmental management system and development of the state targeted programmes of ecologization of the national economy industries, foreseeing technical re-equipment, introduction of energy efficient and resource saving technologies, low-waste, non-waste, and environmentally safe technological processes.

Aiming at this, the interdepartmental committee on inclusion of measures for economy ecologization into the state targeted and industry programmes will be established at the end of 2011 – at the beginning of 2012.

For the stages by 2015 and by 2020 it is planned to:

Develop and introduce the system of stimuli for economic entities which introduce the environmental management system, principles of corporate social responsibility, incorporate environmental audit, certification of manufacturing, certification of product quality in accordance with the international environmental standards, improve environmental characteristics of products in accordance with the established international environmental standards. In particular, it is planned to secure increase in energy efficiency of manufacturing by 25 per cent in comparison with the basic year by 2015 and to 50 per cent of the basic level by 2020, increase in scope of application of the renewable and alternative energy sources by 25 per cent of the basic level by 2015 and by 55 per cent of the basic level by 2020.

Among others, it is planned to do the following in industries:

in manufacturing and energy sectors:

- adoption of the Concept of adaptation in Ukraine of cleaner manufacturing in 2012 and adoption of the correspondent strategy and national action plan by 2015;
- development of the methodology for identification of the environmental risk conditioned by manufacturing activities of environmentally dangerous objects by 2015.

in transportation and road industry:

- installation of anti-noise constructions/screens (in places where settlements are situated near highways) in settlements with population of not less than 500 thousand inhabitants by 2015 and with population of not less than 250 thousand inhabitants by 2020;



- creation of economic conditions for development of infrastructure of environmentally clean types of transportation, particularly, public transportation, by 2015 increase in share of public transport within the general infrastructure by 25 per cent by 2020.

in housing and utilities infrastructure and construction:

- revision of legislative framework aiming at ensuring environmental requirements during the process of industrial and housing designing, construction, reconstruction, and dismantling of structures;
- increase in energy and resource saving in multi-dwelling units;

in agriculture:

- creation of conditions for wide introduction of environment oriented and organic technologies of agriculture and doubling of areas of those technologies' application in comparison with the basic level by 2020;
- increase in the share of lands used for organic agriculture purposes to 7 per cent by 2020;

in defence:

- development of stimuli for stimulation of introduction of the environmental management systems in military units by 2015, ensuring environmentally safe natural resources management by 2020.

in the field of tourism and recreation:

- introduction of the environmental management systems and strengthening of the state environmental control of the objects for tourist and recreational purposes and hotel and restaurant business, development of eco-tourism and environmentally oriented recreation by 2015.

## Objective 5: Reinforcing of structures and procedures to carry out environmental impact assessment (EIA)

Question	Yes			No	Notes
	Excellent	Adequate	Poor		
Grade	3	2	1	0	
<i>General aspects</i>					
(1) Does the existing legislation require EIA for activities likely to have significant impact on natural resources and the environment? If not, is the adoption of such legislation planned?			1		The legislation requires an EIA, but in connection with the adoption of the Law of Ukraine “On the Regulation of Urban Planning”, this requirement is limited.
<i>Structures</i>					
(2) Are responsibilities clearly defined and distributed between the national and regional/local governments?			1		There is no clear distribution.
(3) Is the capacity of the regulatory authorities sufficient? <sup>22</sup>				0	Deterioration of the situation in connection with the adoption of the Law of Ukraine “On the Regulation of Urban Planning“.
<i>Procedures</i>					
(4) Are criteria and procedure for defining which activities are subject to EIA clearly established?			1		In determining the class of complexity the environmental indicators are not taken into consideration.
(5) Does the procedure in place provide for a preliminary screening stage to decide if an EIA is required for the proposed project?			1		This is dealt with only by the project organization.
(6) Does the procedure in place provide for a scoping stage to identify the potential significant impact and main alternatives to assess?		2			At the level of EIA.
(7) Is the information to be provided by the developer in the EIA clearly established e.g. through setting the minimum content of the EIA?		2			At the level of the state construction estimates (STE).
(8) Are consultation procedures				0	Not envisaged for the

<sup>22</sup>This question is rather subjective benchmark, although it is important as without sufficient capacity, legal requirements can hardly be implemented and enforced. It relates mainly to the number and the degree of qualifications of people in charge of reviewing EIA at the national and regional level.

with authorities likely to be concerned by the project in place and well applied?					assessment of construction projects.
(9) Does the legislation clearly require the relevant country authorities and stakeholders to be informed in the case of probable trans-boundary impacts?			1		At the level of the Espoo.
(10) Does the legislation clearly require consultations with the relevant country authorities and stakeholders in case of probable trans-boundary impacts?			1		At the level of the Espoo Convention.
(11) Are clear procedures in place to ensure effective information for the public early stages on in the process?			1		Is not always used effectively in practice. In connection with the adoption of the Law of Ukraine "On the Regulation of Urban Planning" this requirement is limited.
(12) Is the public concerned given early and effective opportunities to participate in decision-making environmental procedures?				0	The Law of Ukraine "On the Regulation of Urban Development" does not provide for public participation in the issuance of permits.
(13) Is the public concerned given early and effective opportunities to participate in decision-making environmental procedures?				0	
(14) Is the competent authority required to inform the public of the decision to grant or refuse to provide consent on implementation of the project?				0	Not envisaged by the legislation.
(15) Is the competent authority required to inform countries consulted in case of trans-boundary impact of the decision to grant or refuse development to the developer?			1		At the level of the Espoo Convention.
(16) Are the exceptions to information rights, e. g. related, for example, to commercial confidentially clearly set out?			1		Deterioration of the situation in connection with the adoption of the Law of Ukraine "On the Regulation of Urban Planning".
(17) Can the state authority which takes a decision on consent on implementation of the project to impose additional requirements in				0	Not envisaged.

relation to positive decision?					
(18) Is a public right of appeal against the decision clearly set up and in place?			1		General procedures of appeal are in place.
(19) Does the EIA procedure include a follow-up requirement concerning the post-project analysis? If yes, is such a procedure applied?			1		Not applied in practice.
<b>Implementation of the Espoo Convention</b>					
(20) Did the country ratify this multilateral environmental agreement?	3				Yes, Ukraine is a Party to the Espoo Convention since 1999
(21) Was the legislation adopted or changed in order to implement requirements of the international agreement?			1		The Action plan (Strategy) for the implementation of paragraphs 11-12 of the Decision IV/2 of the Parties to the Convention on the assessment of environmental impacts in a transboundary context.
(22) If yes, then does this reflect obligations foreseen by the agreement properly?			1		According to the decisions of the Meetings of the Parties to the Espoo Convention, the national legislation of Ukraine does not adequately comply with the Espoo Convention.
(23) Were the other measures taken in order to implement the international agreement?		2			The adoption of the Action Plan (Strategy) + implementation of the EU projects in support of the implementation of the Espoo Convention.
(24) Does the system of reporting on results of implementation of the international agreement exist in the country?		2			The quality of reports is poor.
(25) If yes, then did the country already report on results of the		2			Ukraine has a number of additional reporting

agreement implementation?					obligations, which are not always performed in a timely manner.
(26) Was the country recognized as the country not following the international agreement?				0	Two decisions with regard to Ukraine, including the warning to Ukraine.
<b><i>Implementation of the Protocol on Strategic Environmental Assessment (SEA)</i></b>					
(27) Did the country ratify this multilateral environmental agreement?				0	
Was the legislation adopted or changed in order to implement requirements of the international agreement?					Not relevant
If yes, then does this reflect obligations foreseen by the agreement properly?				0	
Were the other measures taken in order to implement the international agreement?			1		Ratification is incorporated into the NAP.
Does the system of reporting on results of implementation of the international agreement exist in the country?				0	Not relevant
If yes, then did the country already report on results of the agreement implementation?				0	Not relevant
Was the country recognized as the country not following the international agree?				0	Not relevant
<b>Overall assessment:</b> Score from 0 to ... (3x number of questions)					<b><i>27 out of 81 possible</i></b>
Per cent					<b><i>33.3%</i></b>

### **Comments and explanations:**

The EU-Ukraine Association Agenda, among others, indicates the support for the “further development and implementation of the Ukrainian environmental legislation and plans, in particular with regard to the impact assessment, strategic assessment .” Ukraine is also committed to develop the national implementation instruments in accordance with the multilateral environmental agreements. These issues are included in the List of priorities of the EU-Ukraine Association Agenda for 2010 and for 2011-2012. The issue of assessing the environmental impact and implementation of the multilateral environmental agreements is also seen at the level of EP initiatives, in particular the flagship initiative.

(1) Assessment of the environmental impact of the planned activities is governed by such regulations in Ukraine: the Law of Ukraine “On Environmental Protection” of 26.06.1991, the Law

of Ukraine “On Environmental Expertise” of 09.02.1995, the Law of Ukraine “On the Regulation of Urban Planning” of 17.02.2011, the Resolution of the Cabinet of Ministers of Ukraine “On the list of activities and objects of high environmental risk” of 27.07.1995, the Resolution of the Cabinet of Ministers of Ukraine “On the order of transfer of documentation for the state ecological expertise” of 31.10.1995, the State Construction Estimates SCE A.2.2-1-2003 “The structure and content of materials of the environmental impact assessment (EIA) for the design and construction of enterprises, buildings and structures”, the Resolution of the Cabinet of Ministers of Ukraine “On approval of the Procedure of assignment of IV and V categories to the construction projects“ of 27.04.2011, the Resolution of the Cabinet of Ministers of Ukraine “On approval of the Procedure of urban development expertise” of 25.05.2011.

After the entry into force of the Law of Ukraine “On the Regulation of Urban Planning”, the Law of Ukraine “On Environmental Protection” no longer contains provisions on the mandatory environmental impact assessment. The state environmental impact assessment now refers to draft legislation and other regulations, documentation on the implementation of new techniques, technologies, materials, substances, products, genetically modified organisms the implementation of which may lead to the breach of environmental regulations, adverse effects on the environment, as well as sites with high environmental risk. For construction and reconstruction projects, feasibility studies and calculations the expertise is performed, which, among other, may include environmental impact assessment. The construction projects of I-III categories of complexity are not subject to compulsory expertise.

(2) The Section III of the Law of Ukraine “On Environmental Expertise” defines the competence of the Verkhovna Rada (Parliament), the Cabinet of Ministers of Ukraine, the Ministry of Ecology, local authorities, other public authorities in the field of environmental impact assessment. Nevertheless, the distribution of competences between the Ministry of Ecology and its local bodies is not defined and is not clear.

The examination of construction projects in accordance with the Law of Ukraine “On the Regulation of Urban Planning” is the responsibility of expert organizations, regardless of the form of ownership, that meet the criteria, determined by the central executive authority for construction, urban planning and architecture. Prior to the examination the environmental experts are involved, among others.

(3) The system of urban planning expertise is not functioning since its inception. The procedure for issuing permits for construction projects does not provide for the involvement of experts of the relevant ministry.

At the moment there is a discussion of changes to Article 31 of the Law of Ukraine “On the Regulation of Urban Planning”, according to which it is proposed to introduce the environmental impact assessment for construction projects performed by a specially authorized executive body on environmental issues and natural resources.

After the entry into force of the Law of Ukraine “On the Regulation of Urban Planning” the issue of personnel skills is relevant not only for the government bodies but also for expert organizations and individual experts which perform the design.

(4) Construction projects are divided into I, II, III, IV, V categories of complexity. The assignment of the object to a particular category is performed by the project organization and the customer of the construction. In determining the category, the environmental factor is not taken into account. Objects of I-III category of complexity are not subject to compulsory examination. The objects that represent the greater environmental risk refer to IV and V categories of complexity.

(5) After the entry into force of the Law of Ukraine “On the Regulation of Urban Planning” the pre-screening aimed at determining whether the proposed project falls under the EIA, is performed only by the project organization.

(6) This issue is regulated neither at the state environmental assessment nor at the level of the mandatory assessment of construction projects. The issue was resolved at the level of EIA. According to the SCE A.2.2-1-2003 one of the tasks of EIA is to identify the list of possible environmental hazards and impacts of the planned activities on the environment in accordance with the options of accommodation. The EIA considers only those components and objects of the environment that are affected by the planned activities, as well as the current state of which does not meet the regulatory requirements. For each of the components of the environment there is, in particular, the rationale for assessment of its characteristics, the list of impacts etc.

(7) The SCE A.2.2-1-2003 shall govern the development of materials of the environmental impact assessment in the design documentation, the main requirements for the structure and content of these materials.

(8) In accordance with Article 31 of the Law of Ukraine “On the Regulation of Urban Planning”, “ the project documentation for construction does not require the approval by state authorities, local self-government bodies, their officials, legal entities established by such authorities “.

(9) As Ukraine is a party to the Convention on Environmental Impact Assessment in a Transboundary Context and the international treaties are part of the national legislation, the procedure of consultation with other states in case of the potentially negative impact on the environment of other States is applied in Ukraine. The SCE A 2.2-1-2003 is directly referred to the Espoo Convention. However, in practice such procedures at present can not be applied because of the failure to involve MENR in the process of urban planning expertise.

(10) See item 9 above.

(11) The provision of information to the public is required by EIA legislation. With regard to urban planning there is no such requirement.

(12) Such a requirement is contained in the SCE 2.2-1-2003. With regard to urban planning there is no such requirement.

(13) See item 12 above.

(14) The Law of Ukraine “On the Regulation of Urban Planning” does not contain such an obligation.

(15) This requirement exists in accordance with the Espoo Convention. In connection with the failure to involve MENR in the urban planning expertise, the implementation of this provision in practice is currently impossible.

(16) At the stage of the EIA all materials are the property of the investor and in connection with the abolition of the environmental expertise, they acquire the status of a public document only during the licensing process in the Ministry of Regional Development and Construction. And the latter procedure does not provide for public participation. The timeframes for provision of information by three times exceed the timeframes of permits issuance.

(17) The Law of Ukraine “On the Regulation of Urban Planning” does not establish additional requirements for positive decisions on consent to project implementation.

(18) With regard to appeal against the decision by the public, the general procedures of appeal - administrative and judicial are applied. In practice, the use of such procedures is limited.

(19) The SCE 2.2-1-2003 provide that the post-project analysis is initiated by the administration of the object or the state surveillance bodies. The procedure for the state environmental review does not provide for such a stage.

(20) The Convention on Environmental Impact Assessment in a Transboundary Context was ratified by the Law of Ukraine #513-14 "On ratification of the Convention on Environmental Impact Assessment in a Transboundary Context" on March 19, 1999.

(21) The special legislation for the implementation of the Convention in Ukraine was not adopted. For the implementation of par. 11-12 of the decision IV/2 of the Parties to the Espoo Convention, the Resolution of the Cabinet of Ministers of Ukraine of January 6, 2010 approved the Action Plan (Strategy). The Action Plan includes four groups of measures to be taken: (1) development of a set of regulations or amendments thereto, (2) introduction of changes to the SCE; (3) arrangement of trainings and seminars devoted to the implementation of the Espoo Convention; (4) development and adoption of guidelines on the practical implementation of the Espoo Convention. However, most of the planned measures have not been realized.

Currently it is planned to adopt the changes to the SCE A.2.2-1-2003 in connection with the need to ensure the implementation of the Aarhus Convention and the Espoo Convention, namely the provisions relating to the EIA for objects that require EIA in a Transboundary Context.

(22) According to the decisions of the Meetings of the Parties to the Espoo Convention, the national legislation of Ukraine does not adequately comply with the Espoo Convention. In particular, the recent decision of the Meeting of the Parties in respect of Ukraine expresses its concern about the new changes in legislation related to the state environmental review.

(23) In this context it is possible to highlight the EU technical assistance project "Assistance to the Ministry of Ecology of Ukraine with regard to the implementation of requirements in accordance with the Espoo Convention and Aarhus Convention". In October 2011 a new project on the above issues was launched, with the support of the EU.

Another positive step is the initiative on the development of bilateral agreements in accordance with Article 8 of the Espoo Convention.

(24) The country has a reporting system in accordance with the Espoo Convention. The highest score is impossible to determine, taking into account the poor quality of these reports.

(25) Ukraine has a number of additional reporting obligations, which are not always performed in a timely manner.

(26) At the Fifth Meeting of the Parties to the Espoo Convention (20-23 June 2011) for the first time in the history of the Espoo Convention Ukraine obtained a warning for the violation of provisions of the Convention. Formally, the decision of the Meeting of the Parties enacted the 2008 warning.

(27) The Ukrainian government repeatedly expressed its intention to ratify the Protocol on Strategic Environmental Assessment in a number of documents or to bring its legislation into conformity with the Directive 2001/42ES, in particular in the Ukraine-EU Action Plan, in the Action Plan for implementation of the National Program for adaptation of the Ukrainian legislation to the EU legislation, in the National Action Plan for Environmental Protection of Ukraine for 2011-2015 and other. However, Ukraine still lacks political will to ratify the Protocol.



## **Conclusions and recommendations:**

1. In Ukraine, there is no effective system for assessing the environmental impact of potentially dangerous to the environment planned industrial projects (activities). Formerly a major role in assessing the potential environmental impacts was played by the state environmental expertise. With the entry into force of the Law of Ukraine “On the Regulation of Urban Planning”, the state environmental expertise was virtually abolished. The current system of regulation of the urban development, including the EIA as the design stage, cannot provide for assessment and prevention of environmental impacts of dangerous human activities and has several disadvantages, namely: (a) the process of defining, projecting, assessment and taking into account the environmental impacts of planned activities (urban planning expertise) is carried out by private persons; (b) the mechanism for determining the binding of the urban planning expertise excludes the application of the generally accepted EU approaches; (c) the EIA procedure, particularly its stages, does not meet the international model for assessing the impact on the environment; (d) the current procedures for assessing the environmental impacts in Ukraine cannot ensure the principles of public participation and transparency.

This situation with the state environmental expertise has a direct impact on the implementation by Ukraine of its obligations in accordance with the Espoo Convention, in particular the assessment of environmental impacts in a transboundary context, including public participation and awareness.

Currently, there are two documents that will introduce some changes to the process of expertise; in particular, it is suggested to introduce a new type of expertise - environmental expert assessment to be carried out by MENR and including in the State Construction Estimates the separate provisions governing the conduction of EIA of projects with transboundary effects.

In Ukraine, there is currently an urgent need to resolve the issue of assessing the environmental impact of projects. This can be achieved through the introduction in Ukraine of the European model of EIA. This is the best way, taking into account the European integration course of Ukraine, the intentions to adapt the Ukrainian legislation to the EU standards, the availability of such liability in a number of national and international instruments.

Moreover, it is necessary to ensure the implementation of strategic environmental assessment procedures in the legislation of Ukraine either by ratification of the Protocol, or by the adaptation to the relevant EU Directive.

## Objective 6: Improving access to information and public participation

Question	yes			No	Notes
	Excellent	Adequate	Poor		
Grade	3	2	1	0	
<i>Implementation of Aarhus Convention</i>					
(1) Has the country ratified this multilateral environmental agreement?	3				Ukraine ratified the Aarhus Convention (AC) in 1999.
(2) Was the legislation adopted or changed in order to implement requirements of the international agreement?			1		<p>Immediately after the AC ratification new regulations were adopted aiming at introduction of the AC provisions into the national legislation. Also amendments to existing regulations have been made. But those amendments happened to be insufficient for proper execution of rights guaranteed by the AC.</p> <p>Other amendments were introduced during the subsequent years but the situation did not improve.</p> <p>Only with adoption of the LU on Access to Public Information and new edition of the LU on Information the situation with access to environmental information at the legislative level improved. Realization of this right in practice remains at low level.</p> <p>At the same time, adoption of the LU on Regulation of Urban Planning Activities abolished the institute of environmental expertise of projects of the environmentally dangerous activities and objects. The public participated in the process of adoption as it is expressed in art. 6 of the AC.</p>
(3) If yes, then does this properly reflect obligations foreseen by the agreement?			1		Yes in relation to access to information. As for participation of the public and access to justice – no.
(4) Were the other measures taken in order to implement the international					The Government treats the AC with extreme indignity.

agreement?					
(5) Does the reporting system on results of implementation of the international agreement exist in the country?				0	Reports exist within the framework of the Convention. All the parties prepare Report on Implementation each 3 years prior to the Conference of Parties. The Report is considered by the correspondent bodies of the Convention.
(6) If yes, then did the country already report on results of the convention's implementation?				0	Yes, three times but reports are mainly inadequate.
(7) Was the country recognized as the country not following the international agreement?				0	Ukraine was considered as the country not compliant with the Aarhus Convention three times: in 2005, 2008, and 2011.
<b><i>Implementation of the PRTR Protocol</i></b>					
(8) Has the country ratified this multilateral environmental agreement?				0	
Was the legislation adopted or changed in order to implement requirements of the international agreement?				0	
If yes, then does this properly reflect obligations foreseen by the agreement				0	
Were the other measures taken in order to implement the international agreement?				0	
Does the reporting system on results of implementation of the international agreement exist in the country?				0	
If yes, then did the country already report on results of the agreement implementation?				0	
Was the country recognized as the country not following the international agreement?				0	
<b><i>Access to environmental information</i></b>					
(9) Are there satisfactory administrative systems in place for prompt responses	3				

to requests for information from the general public?					
(10) Are there satisfactory guidelines available on information held by the state authorities and how to request access to such information?	3				
(11) Are there well-established channels of the environmental information publication in the country (for example, laws, case-law, decisions of executive authorities and etc.)?		2			Laws and regulations of executive bodies are published, including internet, but concrete individual decisions (licences, permissions, concordances, conclusions of expertise) are not published. Also the computer databases of environmental information do not exist or, if exist, are not available to public.
(12) Is access to information free of charge <sup>23</sup> or inexpensive <sup>24</sup> ?		2			If the quantity of pages exceeds 10 pages, corresponding body has a right to take payment, starting from the first page, at the rate 1 hrn. per page.
(13) Is there a secure data management system to handle commercially sensitive information and personal data in the country?				0	
(14) Are there clear guidelines for authorities on how to apply commercial confidentiality requirements, including on information disclosure due to public interest?			1		It is set forth at the level of the Law that information with limited access is subject to disclosure, if benefits from its disclosure exceeds the harm from its dissemination. However, no next steps forward in relation to this legal provision were taken yet.
<b><i>Participation of the public</i></b>					
(15) Are there procedures for enabling public participation in decision making in place, e. g. have clear procedures been established for submitting of written comments or comments at hearings and			1		In relation to art. 6 of the AC – no, in relation to art. 7 of the AC – partially.

<sup>23</sup>If yes, then the answer has to be “yes” – “excellent”.

<sup>23</sup>If yes, then the answer has to be “yes” – “excellent”.

<sup>24</sup>If yes, then the answer has to be “yes” – “good” or “yes” – “satisfactory” depending whether the access still remains simple despite payment or if there exist barriers to access.

for the notification of decisions?					
(16) If yes, then are citizens well informed of these procedures?				0	
(17) Have tools been developed to identify the participating public? In particular, if there is an Environmental Impact Assessment procedure in place, does it also involve public participation?				0	
(18) Are the outcomes of public participation procedures taken into account in an appropriate manner? Does public input have a tangible influence on the actual content of the decisions?			1		In some cases active general public influenced on the final decisions. There are positive practices.
(19) Have incentives been developed to allow applicants to engage in early dialogue with public?				0	
<b><i>Access to Justice</i></b>					
(20) Does the country provide for independent and impartial review bodies, including courts?	3				
(21) Have clear rules been developed in relation to the right of individuals and the NGOs to access judicial and other reviews for violations of the Convention and for violations of national environmental legislation?				0	
(22) Is the mechanism to suspend execution of a decision, which is dangerous for environment developed (e. g. preliminary injunction for the period of decision appeal)?				0	Within each kind of judicial proceedings there are general provisions on pre-award relieves but their application is related to necessity for bailment and/or compensation of damages caused to defendant in case he loses the case.
(23) Have the mechanisms been established to provide the public with information on access to justice procedures?				0	

(24) Have assistance mechanisms been developed for the public in accessing to the procedures, for example, financial support to pay for lawyer's services if necessary?				0	
(25) Is there a time limit set by national legislation between the beginning of an appeal and a legal decision? If not, is the average of such a procedure acceptable?			1		At the legislative level such limits are foreseen and they would be acceptable, if courts would follow them. In practice, the time limit for consideration of cases in general and administrative courts is significantly higher than that set forth by the law and usually is unacceptable.
<i>Country –specific questions</i>					
<b>Overall assessment:</b> Score of 0 to ... (3x number of questions)	12	4	6		(22 of 78 available)
Per cent					28.2%

### **Conclusions and recommendations:**

From the moment of the Convention ratification in 1999 Ukraine did not bring its legislation and practice of its application into compliance with the Convention requirements as of December 2011. Therefore, we can state that the rights envisaged by the Convention are just on paper in Ukraine. Some movement ahead was observed recently only in relation to access to environmental information. But this movement was limited just to provision of information on request which is a consequence of adopted general law on access to public information.

Because of this it is recommended to build the institutional and legal foundation for accumulation, storage, and access to environmental information, including access online. Also it is crucial to revise the national procedures of decision making following the wording of art. 6 of the Convention and introduce correspondent provisions into the national legislation aiming at actual provision for participation of the public as it is guaranteed by the Convention. For this purposes it is recommended to entirely take into account conclusions and recommendation of the Committee for Compliance of the AC which were prepared in relation to Ukraine and also other practice of the Committee. Also, it is needed to introduce provisions of the Convention on access to justice, especially in relation to adequate means of legal defence and court cost.

## Objective 7: Cooperation on development of the Shared Environmental Information System (SEIS)

Question	Yes			No	Notes
	Excellent	Adequate	Poor		
Grade	3	2	1	0	
<i>Implementation of the JEIS Project</i>					
(1) Did experts of SEIS project make country visit to identify priorities and plan of activities?	3				The seminar was held on November 7, 2011.
(2) If not, is it planned to organise such a visit in the nearest future?					-
(3) If yes, then were representatives of the public invited to such a meeting?		2			One representative was invited (MAMA-86), the even was not announced in advance but electronic materials were disseminated among the interested public (ГР under the Ministry of Environment)
(4) Is a person responsible for implementation of the project in the country appointed in the Ministry/another authority?	3				Order of the Ministry of Environment and Natural Resources of October 10, 2010 No. 377 on Appointment of a Person Responsible for Issues of Realization of the European Neighborhood and Partnership Instrument to Establish the Shared Environmental Information System (ENPI-SEIS Project). <a href="http://www.menr.gov.ua/content/article/9385">http://www.menr.gov.ua/content/article/9385</a> Co-coordinator was appointed accordingly in the State Statistical Service of Ukraine.
(5) Does the public know the appointed responsible person?	3				The Ministry of Environment – Mr. Averin D.G., Head of Department of Environmental Monitoring.  The State Statistical Service – Prokopenko A.M., Head of Department of Agriculture and Environment.
(6) Is the information on the			1		Just information about the seminar in the form of news

project available on the website of the responsible authority/Ministry?					<a href="http://www.menr.gov.ua/content/article/9522">http://www.menr.gov.ua/content/article/9522</a>
(7) Was the action plan for the country adopted or is it in the process of development?		2			Such plan has to be developed in accordance with measures of the National Action Plan by the end of 2012. The preparation was already started.
(8) Do the priorities in the plan correspond to the ones proposed by the public?			1		At this stage, according to the results of discussions as of November 7, the preliminary opinion is that there are no contradictions.
(10) Has the interdepartmental authority on coordination within the framework of the project at the country level been created or is coordination assigned to already existing interdepartmental authority of environmental monitoring? (specify in the Notes)				0	No. The interdepartmental working group on environmental monitoring exists but it is not functional.
<b><i>System of collection/provision of environmental information and the public</i></b>					
(11) Does the unified electronic database of environmental data exist in the country?				0	No.
(12) If yes, then is it available for the public on the Internet?				0	No.
(13) Does the authority responsible for collection, processing, and provision of environmental information exist in the format, which does not need additional payments			1		The Ministry of Environment, other ministries, and the State Statistical Service of Ukraine (reorganized in accordance with the Decree of the President of Ukraine No. 396 of April 6, 2011) are responsible for collection of information. There is no any separate authority for this. But we talk here about primary data which needs



and interpretation?					analysis and transformation into information.
(14) Does the national legislative act on regularity of preparation and adoption of the National State Of Environment Report exist? (indicate the national legislative act and frequency in the Notes)	3				Yes. Annually. Promulgation is also necessary AFTER approval of the Supreme Council of Ukraine. The Law of Ukraine on Environment Protection.
(15) Does the actual periodicity of issuing of the report comply with requirements of the national legislation?			1		Does not comply, the last national Report was published in 2007. Reports for 2009 and 2010 are prepared retroactively but they are not published.
(16) Is it possible to find information on the main indicators for the last 2 years in free access in case, if the report is issued irregularly?			1		Not in full, fragmentarily.
(17) Does the Ministry engage the public to cooperation in collection and/or preparation and/or dissemination of information?			1		Yes, within the chapters on works with the public and provision of information.
<b><i>Political will to solve problems of monitoring and information management</i></b>					
(18) Does the Ministry/authorized body openly discuss the problems of the monitoring system and its maintenance?			1		In general yes, but non-systemic.
(19) Are significant funds foreseen in the budget of the country/SEPF for improvement of the technical support of the monitoring system?		2			Significant funds are appropriated but it is difficult to allocate a share which will be spent exactly on improvement of the technical foundation of monitoring.
(20) Are measures for development of	3				Yes, in the National Action Plan adopted by the CMU in May 2011.

the automated information system and for providing access to this system via Internet foreseen in the Action Plan/budget?					
(21) Is there a decision on approval of indicators of environmental policy's efficiency(if yes, then what is the status of the document of such a decision)	3				Indicators approved for the first time as a part of content of the Strategy for the State Environmental Policy (Law of Ukraine of December 21, 2010).
(22) Have those indicators already been used to assess any existing policy?			1		In the process. They will be applied for the first time to assess the year 2011.
(23) Has the public been engaged to the works on those indicators?	3				Yes.
<b>Country –specific Questions</b>					
<b>Overall assessment</b> : Score of 0 to ... (3x number of questions)					<b>35 of 66 available</b>
Per cent					<b>53%</b>

**Comments and clarifications:**

Aiming at establishment of the shared information network, funds were appropriated to the Ministry of Environment and data of measurements were collected from all the subjects of monitoring. They could be used for SEIS.

**Recommendations:**

1. Increase targeted financing of the material and technical base of monitoring.
2. Analyze existing systems of information and property rights on that information of different entities.
3. Resume operation of the Interdepartmental Working Group for Environmental Monitoring.
4. Make studying of SEIS experience in transformation data into information for decision making a top priority.

5. Execute NAP without delays, engage the public into SEIS activities more actively, and improve awareness on this issue.
6. To NGOs – actively participate in monitoring of SEIS realization in Ukraine.