

Gap analysis of the current legislation in Georgia and development of a roadmap outlining EU4Climate support to Georgia in alignment with EU *acquis* included in Bilateral Agreements on Climate Action and/or Energy Community Treaty (Lot 1)

Part III: Roadmap for the EU4Climate support to Georgia in the
alignment with EU *acquis* (Deliverable 3)

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List of abbreviation

AA	EU-Georgia Association Agreement
BAU	Business as usual
BUR	Biennial Update Report
CAP	Climate Action Plan
CB	Capacity Building
CDM	Clean Development Mechanism
COP	Conference of the Parties (UNFCCC)
CP	Contracting Party to EnC
EaP	Eastern Partnership
EC	European Commission
ECS	Energy Community Secretariat
EnC	Energy Community
EnCT	Energy Community Treaty
EIEC	Environmental Information and Education Centre
EU	European Union
ETS	Emissions Trading System
F-gases	Fluorinated Greenhouse gases
GHG	Greenhouse Gas
GoG	Government of Georgia
HFC	Hydrofluorocarbons
KP	Kyoto Protocol
LEDs	Low Emissions Development Strategy
LTS	Long-Term Strategy for Low Emission Development
MMR	Monitoring Mechanism Regulation

MRV	Measurement, Reporting and Verification
MoU	Memorandum of Understanding
NAP	National Adaptation Plan
NDC	Nationally Determined Contribution
NECP	National Energy and Climate Plan
NEEAP	National Energy Efficiency Action Plan
NEAP	National Environmental Action Programmes
ODS	Ozone Depleting Substances
PA	Paris Agreement
PaMs	Policy and Measures
PG	Policy Guidelines
TA	Technical Assistance
TWG	Technical Working Group
UNFCCC	United Nations Framework Convention on Climate Change

1. Introduction

In the aftermath of the signature of the Association Agreement (2014) and the accession to Energy Community Treaty (2016), Georgia is now developing revitalized national climate and energy policy deeply rooted into harmonised legislation. This is further strengthened by the ratification of Paris Agreement (PA). The (Intended) Nationally Determined Contribution (I)NDC, submitted to the UNFCCC in line with the PA, mandates Georgia to reduce the GHG emissions unconditionally by 15% (with additional 10% of conditionality) compared to the business as usual (BAU) scenario by 2030. The PA requests Parties to increase their climate ambition, which is a national decision, and to submit enhanced NDC before COP 26 to curb even further carbon emissions.

Association Agreement and Energy Community processes facilitate Georgia to translate the afore-mentioned political pledges into actual policy scenarios. More specifically, two key EU legal acts on F-gas and ODS enshrined in the AA provide the legal pathways towards comprehensive F-gas and ODS national legislative framework in Georgia. Additionally, the EnC Recommendations refer to the process of EU climate *acquis* implementation requiring a high-level cooperation under the EnC.

The legal specificities and the details of EU climate *acquis* stemming from the AA and EnCT have been to a larger degree explored in the previous outputs¹ of the

Assignment. First two deliverables have additionally (1) reviewed the relevant climate *acquis* (EU and Energy Community) applicable to Georgia; (2) verified if domestic legislation in Georgia exists and/or is compatible with the EU *acquis*. While the deliverable 1 formed the first pillar of the assignment and outlined the key EU and national legal acts to be checked against each other, the deliverable 2 applied detailed gaps analysis in existing and/or incoming legislation to measure the exact level of concordance in-between the matching legal acts.

Against this background, the present third deliverable of the Project develops a detailed Roadmap for the EU4Climate support to Georgia on the basis of the performed work under the EU-funded project “Gap analysis of the current legislation in Georgia, Moldova and Ukraine and development of a roadmap outlining EU4Climate support to Georgia in alignment with EU *acquis* included in Bilateral Agreements on Climate Action and/or Energy Community Treaty.”²

Therefore, the Roadmap incorporates the analysis that has been deployed before and provides a guidance on the integration of the following key legal documents into the relevant national strategic planning and legal drafting: a) F-gas Regulation; b) ODS Regulation; c) EnC Recommendation 1 on NECP and d) EnC Recommendation 2 on Monitoring Mechanism Regulation.

¹ Deliverable 1 and 2 submitted to Energy Community Secretariat respectively on 2 December 2019 and 31 January 2020.

² The action is undertaken by EU4Climate Programme with indirect management of the

UNDP. This particular analysis is carried out by individual experts as per requested by Energy Community Secretariat.

What should be noted is that the Roadmap mostly addresses the legal implementation activities, which are explicitly required by the AA or EnCT. In some cases, it also refers to the actions that are not directly requested by the AA/EnCT. It is believed that such references outside the scope of the Agreement are to be useful for overall implementation of the climate *acquis*. On top of that the Roadmap outlines the necessity of drafting legislation, concepts, plans to be followed by numerous practical activities undertaken by responsible authority in cooperation with the line ministries and other relevant stakeholders.

In terms of methodology, the Roadmap is divided into two parts. The part I of the Roadmap comprises a *word* file format consisting of a limited number of key actions to be taken in response to implementing EU climate *acquis* nationally. The section 2 of the document sums up the major findings in an

executive summary format, while the sections 3-7 list down the specific recommendations that come into fulfilment of the actions. Eventually, section 8 concludes. The Part II of the Roadmap comprises an *excel* sheet elaborating the GANTT chart pointing on the actions and recommendations stretched to the specific deadline or indicative timeframe. Where applicable, the references on *Capacity Building (CB)*, *Technical Assistance (TA)* and broader stakeholder engagement are also made.

The Roadmap corresponds to the overarching objective of the EU4Climate Programme, which is to reinforce climate action and to support the development and implementation of climate-related policies in the respective countries contributing to their low emission climate resilient development and their commitments to the 2015 Paris Agreement on Climate Change.

2. Executive Summary

The Roadmap identifies 5 key actions to ensure Georgia's compatibility with the EU climate *acquis*. This includes two legislative acts (EU Regulations on F-gases and ODS) regulated by the Association Agreement, two EnC-specific Recommendations (National Energy and Climate Plan and GHG Monitoring Mechanism Regulation) and climate policy streamlining. Each key action is followed by the recommendations (in total 16) proposing detailed activities that can support the

achievement of the overarching action. The *figure 1 and 2* below capture these key actions and recommendations. The stringent timeline is attached to each recommendation, whenever the specific deadline stems either from the Association Agreement, EnC framework or is assigned by the decision of the government of Georgia. An indicative timeframe suggested by this study is assigned to each action and recommendation, whereas the specific deadline is not provided in the AA/national legislation and/or under the EnC framework.

Roadmap outlining EU4Climate support to GEORGIA in alignment with EU climate <i>acquis</i> included in Bilateral Agreements on Climate Action and Energy Community Treaty				
SHORT TERM			MEDIUM TERM	LONG TERM
2020	2021	2022	2025	2030
Action 1: Adopt relevant F-gas national legislation				
1.1. Intensify the draft law (No 07-2/332/9) adoption				
1.2. Draft and adopt technical regulation on F-gas			Deadline: 01.09.2021	
1.2. Revise the Association Agreement				
Action 2: Adjust national legislation on ODS				
2.1. Intensify the ODS amendment package finalization			Deadline: 01.01.2021	
2.2. Merge EU ODS Regulation and Montreal Protocol implementation processes				
2.3. Review ODS national legislation regularly				

Figure 1

SHORT TERM			MEDIUM TERM	LONG TERM
2020	2021	2022	2025	2030
Action 3: Accelerate NECP preparation Process				
3.1. Elaborate and submit NECP			Deadline: October 2020	
3.2. Leverage on EU Governance Regulation				
3.3. Apply more regional cooperation				
3.4. Integrate PG into NECP elaboration process			Deadline: October 2020	
Action 4: Transpose MMR into national legislation and develop MRV legal system				
4.1. Clarify "core elements" of the MMR				
4.2. Adopt national legislative act dedicated to GHG monitoring and reporting				
4.3. Institutionalize and systemize the national instittions				
Action 5: Streamline multiple climate planning processes				
5.1. Prepare a single comprehensive climate-relevant legislative act				
5.2. Align timing and combine strategies ahead of COP 26				
5.3. Prioritize climate commitments and ensure donor coordination				

Figure 2

3. Action 1: Adopt relevant national legislation implementing the provisions of EU F-gas Regulation

As articulated in the previous two deliverables of the Assignment, the harmonisation of Georgia's F-gas regulatory framework is mandated by EU's Regulation (EC) No 842/2006 on F-gases.³ Furthermore, Georgia is obliged to implement only certain provisions of the regulation, as explicitly listed in the Annex XVII of the AA instead of incorporating the regulation in its entirety.

Applied analysis also shows that there are no specific primary and secondary national laws governing F-gases in Georgia. Indeed, there are certain national provisions reflected in domestic legislation that correspond to the AA, but their general nature does not set out any specific measures related to climate protecting F-gas framework.

Consequently, the following recommendations can be developed as measures leading towards the adoption of the relevant national legislation implementing the provisions of the EU F-gas Regulation:

3.1. Recommendation 1: Intensify the process of adopting the draft law (№ № 07-2/332/9) amending the 1999 Law of Georgia on Ambient Air Protection

The draft law № 07-2/332/9 registered on 10 April 2019 is amending the law on

Ambient Air Protection. It foremost defines (Art. 1) the term "fluorinated greenhouse gases," which is the first formal appearance of F-gas definition in the legislation.

Apart from this, the draft law designates the competent authority (Ministry of Environmental Protection and Agriculture of Georgia) being responsible for the implementation of controlling the F-gases and attributing the overall functions ranging from preparing the certain amendments to the law to enforcing the regulation. Most importantly, the draft law requires the adoption of the technical regulation on F-gases.

At the time of writing, the draft law has already passed two hearings in the Parliament of Georgia. It is recommended to intensify the process for a final third hearing as early as possible, ideally before the parliamentary elections taking place in autumn 2020.

Timeline for the measure: No specific deadline, however, it is recommended to come into existence by the end of 2020.

3.2. Recommendation 2: Draft a legal act and adopt the technical regulation on F-gas

Pursuant to the Article 12 (5) of aforementioned draft law (№ 07-2/332/9), the technical regulation on controlling the F-gases must be adopted as a secondary by-law, namely in the form of the decree of the Government of Georgia.

³ Regulation (EC) No 842/2006 of the European Parliament and of the Council of 17 May 2006 on certain fluorinated greenhouse gases.

The technical regulation will be complementing the general reference to F-gases under Ambient Air Protection Law and will be undertaking all necessary provisions in compatibility with the EU F-gas Regulation, detailing the legal pathway towards its full implementation. The technical regulation may include the consolidated rules of establishment/adaptation of the national training and certification requirements for relevant personnel and companies, that are now scattered in different primary and secondary legislative acts (See Deliverable 2). It should also ensure the appropriate inspection and penalty system to be carried out by the national authorities, other than rules laid down for environmental wrongdoings by the general administrative offences code of Georgia. Elaboration of specific procedures for inspections, listing breaches, assigning penalties is crucial.

However, legal transposition and available national legislation should never be considered as a dead end. Smooth implementation of the rules is required upon the set-up of the legal and institutional framework. Therefore, raising awareness and capacity building activities should be undertaken. It should include the training for officers on technical requirements and inspections. Sector-specific information and awareness raising campaigns on new and additional requirements, e.g. through workshops at certification bodies, guidance material should also be encouraged.

Technical Assistance for legal drafting is required for this action to prepare the act that is adopted by the GoG and published in the official journal - Legislative Herald of the Parliament of Georgia. This is now carried out by EU4Climate hired local consultant working on the draft technical

regulation under the general oversight of the Ministry of Environmental Protection and Agriculture of Georgia.

Deadline for the measure: 1 September 2021 (set by the draft law).

3.3. Recommendation 3: Revise the Association Agreement timeline and undertake necessary steps for controlling F-gases in a dynamic manner

Updating the Association Agreement is a formal process provided for preventing the negative development of the AAs and approximation of EU laws in the annexes from becoming obsolete whereas new EU laws replace old ones.

It should thus be recommended that the EU-Georgia AA is revised accordingly with respect to new or updated EU climate *acquis*, including the commitments under Paris Agreement. According to Article 406 of the AA, Association Council has the power to update or amend the Annexes to this Agreement. Unless there is no binding decision by the Association Council, there is no legal obligation. Thus, the revision of the Annex XXVII of the AA, including its implementation timeline, is a subject of the decision of the Association Council to follow the constantly evolving nature of the EU law (the principle of dynamic approximation).

Although the enforcement is usually political, it should be recommended that Georgia communicates the implementation process, including the revision of the deadlines, with the European Commission and the Council in timely efficient manner. In this

particular case, deadlines for the specific provisions of the EU F-gas Regulation in Georgia have been modified.

By way of example, the deadline for the adoption of the technical regulation on F-gases has been shifted in-between two hearings of the draft law (№ 07-2/332/9). Georgia has now declared September 2021 as final deadline, while the AA is still stick to July 2021.⁴

Moreover, national F-gas framework legislation provisions need to be regularly reviewed to check if they are still relevant and in line with latest EU legislation. If necessary, specific amendments are to be proposed. Therefore, the subject of the revision can also be the replacement of original EU F-gas regulation (842/2006) – no longer updated at the EU level - with the new EU F-gas regulation (517/2014), which is not automatically incorporated into Georgian legislation (See Deliverable 2).

The requirements set out in the new EU F-gas Regulation 517/2014 build upon the measures established by original 842/2006 Regulation and there is no principal difference between these two acts. Nevertheless, there are a number of novelties that are brought by new Regulation, such as new HFC Phase down mechanism and registry, new prohibitions and bans and reporting obligations covering additional stakeholders. It is, thus, recommended

that Georgia considers replacement original F-gas regulation with the new one.

Lastly, this particular recommendation can also be generalized and extended to other actions. This could potentially cover the inclusion of the landmark EU Directive (2003/87/EC) on emissions trading scheme⁵ as well as the so-called “Governance Regulation” (2018/1999)⁶ into the newly negotiated AA.

Furthermore, Georgia should continue its bilateral dialogue with the European Commission and Council (Association Council format⁷) as well as with the Energy Community Secretariat to move ahead in respect to the climate-related commitments.⁸ This would also share the spirit of EU’s newly proposed Green Deal⁹ (ie. climate neutral European Union by 2050), setting the framework for further climate-related steps. It should be advised that Georgia associates itself with the new Green Deal from the very beginning and prepares joint actions for emissions reduction and the introduction of an emission trading scheme/carbon pricing mechanism.

As carbon tax and ETS is not implemented in Georgia yet, the cooperation with the EnC Secretariat is crucial, as the latter has launched the study in Energy Community to assess and propose the design of an effective carbon pricing mechanism conducive to

⁴ For additional clarification, deadline becomes legally effective from the entry into the force of the AA (2016) and not from the date of signature (2014, ie. provisional entry of the AA). See, <https://ec.europa.eu/commission/presscorner/detail/en/IP_16_2369> accessed on 30 March 2020.

⁵ As a matter of comparison, Ukrainian AA includes the ETS Directive since its signature.

⁶ For details, see the recommendation 5.2.

⁷ Article 405 of the AA: “The Association Council shall consist of members of the Council of the European Union and members of the European Commission, on the one hand, and of members of the Government of Georgia, on the other.”

⁸ E.g. exploring carbon pricing design options for the country can also be a crucial topic.

⁹ A European Green Deal <https://ec.europa.eu/info/strategy/priorities-20192024/european-green-deal_en> accessed on 02 March 2020.

decarbonisation of the Energy Community Contracting Parties.¹⁰

The latest Association Implementation Report on Georgia¹¹ does not detail the progress achieved in the climate change sphere. Comments on the implementation status of F-gas and ODS Regulations are also missing. Nevertheless, the climate *acquis* implementation progress as enshrined in the AA should be considered as positive and satisfactory.

Timeframe for the measure: No specific deadline, however, it is recommended to revise the AA by the end of 2021.

¹⁰ See <<https://energy-community.org/news/Energy-Community-News/2020/02/03.html>> accessed on 31 March 2020.

¹¹ Joint Staff Working Document Association Implementation Report on Georgia

4. Action 2: Adjust the respective national legislation to implement the provisions of EU ODS Regulation

The ODS governing legislation is in somewhat better shape in Georgia in comparison with the F-gas regulatory framework. This is why the word “adjust” is used in this context instead of the word “adopt.” The primary Law of Georgia on Environmental Protection (Article 13) and Law of Georgia on Ambient Air Protection (Article 54), both contain specific references to ODS. Besides, these two legal acts, there are a number of secondary legislations in place complementing the regulatory legal space (e.g. № 302, 304, 311 Decrees of Georgia as well as № 266 Ordinance).¹²

Nevertheless, there have been some gaps identified that need to be addressed accordingly in order to achieve the full implementation of the EU ODS Regulation (EC) No 1005/2009.¹³

It should also be mentioned that similar to the case of the F-gas, Georgia is obliged to implement only certain provisions of the Regulation, as explicitly listed in the Annex XVII of the AA instead of incorporating the regulation in its entirety.

4.1. Recommendation 1: Intensify the process of finalizing the latest amendment package on ODS

There is an ongoing negotiation on the latest ODS-related amendment package including the amendments to the primary Ambient Air Protection Law of Georgia and subsequent changes into the supplementary by-laws and other acts, such as the administrative offences code of Georgia and Law of Georgia on Licenses and Permits.

The *Technical Assistance* is required regarding the legal drafting of the amendment package. At the time of writing, the draft law is still under the preparation jointly by the MEPA and UNDP Project HCFC Phase-Out Management: Reducing the consumption of ozone-depleting substances in Georgia.¹⁴ Given that the draft law is not registered in the database of the Parliament of Georgia, it is not yet publicized for wider consultation. Intensification of the work towards the adoption of the amendment package should be encouraged, as the adoption of the package would close the missing gaps in the implementation of the EU ODS regulation.

It should further be recommended that apart from covering the biggest sector of stationary applications, such as refrigeration, heat pump equipment and

¹² For detailed review, see Deliverable 2.

¹³ Regulation (EC) No 1005/2009 of the European Parliament and of the Council of 16 September 2009 on substances that deplete the ozone layer.

¹⁴ For detailed information on the project, please visit the following website: <https://www.ge.undp.org/content/georgia/en/home/projects/hcfc-phase-out-managementplan.html> accessed on 11 January 2020.

air conditioning, Georgian legislation should cover the F-gas based solvents, fire protection systems and fire extinguishers. “The products and equipment containing ODS” include not only refrigeration and air conditioning equipment but also fire extinguishers, aerosol, polyurethane prepolymers, insulation foam boards etc. This can be included either in the ODS amendment package or in the F-gas technical regulation (Recommendation 3.2.) dependent on the technique and the process of legal drafting. It should also be recommended that the ODS amendment package includes the establishment of the obligations to

recover, recycle, reclaim and destruct used controlled substance, as one of the required provisions (Art. 22 of EU ODS Regulation) by the AA Annex XVII. During the compliance check with the domestic legislation, no specific provision has been traced in national legislation corresponding to this article.

In order to meet the deadline of the EU ODS regulation (incl. the timeline for afore-mentioned Art. 22) it is recommended to adopt the law in the course of this year.

Deadline for the measure: 1 January 2021 (set by the draft law).

4.2. Recommendation 2: Merge EU ODS Regulation implementation process with international measures of protection of the ozone layer

EU ODS Regulation implementation process should not be done in a silo mode. It is essential to pair the AA implementation with international measures of protection of the ozone layer based on the 1985 Vienna Convention for the Protection of the Ozone Layer and the 1987 Montreal Protocol on Substances that Deplete the Ozone Layer (MP).

Since 1997, Georgia submits yearly reports on ODS consumption and activities related to the implementation of the MP requirements to the Ozone Secretariat and the Secretariat of the Multilateral Fund for the implementation

of Montreal Protocol.¹⁵ It should also be stressed that compliance can be found regarding the HCFC phase-out. This is assisted by UNDP through the 2013 introduction of a two-staged HCFC Phase-out Management Plan (HPMP) supported by UNDP.

The UNDP project facilitates the revision of the legislation related to ozone-depleting substances including the latest ODS-amending package as described above. The relevant links with the EU association process should be taken into consideration when revising the legislation to meet the obligations under the Montreal Protocol and its amendments. This would primarily include the inclusion of the relevant stakeholders responsible on the implementation of the AA in the legislative package preparatory work. It would eventually exclude launching two separate process with the single objective.

¹⁵ See, <<http://www.multilateralfund.org/default.aspx>> accessed on 10 January 2020.

A targeted analysis (e.g. analytical brief or strategy paper) can be conducted to assess the potential of merging these two processes on ODS and provide specific recommendations on coordinating the activities. It will be beneficial for future monitoring of Montreal protocol and EU association implementation processes.

Timeframe for the measure: No specific deadline, however, it is recommended to be done by the end of 2021.

4.3. Recommendation 3: Review regularly the ODS implementing legislation and monitor enforcement process

ODS Implementing legislation provisions need to be regularly reviewed to assess whether the legislation is still relevant and in line with latest EU legislation. Should the necessity rise, the next steps are to be clarified, and respectively - amendments proposed. This should be primarily carried out by the competent authority (ie. MEPA), as established by Article 13 of Environmental Protection Law of Georgia and Article 54 (4) of the Ambient Air Protection Law of Georgia. The competent authority should also apply regular monitoring and enforcement.

Deadline for the measure: Ongoing to be concluded by early 2021.

5. Action 3: Accelerate the pace of preparing National Energy and Climate Plan

Although no legally binding, it is highly recommended that Georgia “uses its best endeavours to carry out EnC recommendations”¹⁶ by virtue of its accession to the Energy Community. Albeit no specific rules have been adopted at Energy Community level on the implementation of the EnC Recommendations, they still should be regarded as highly influential, as the recommendations are issued by the Ministerial Council – highest decision-making body of the Community.

The detailed gaps analysis and the assessment in Deliverable 2 have showed that overall implementation of the EnC recommendations at national level in Georgia have been evaluated as relatively slow and should move up a gear. Although the substantial legal reference on NECP has now been incorporated into domestic legislation,¹⁷ the development of the National Energy and Climate Plan development in Georgia is yet to accelerate and should be launched within the shortest delay. The said legal basis, nevertheless, puts Georgia into an advanced stage in comparison with other Contracting Parties.¹⁸ The EnC Secretariat’s recently released report marks NECP implementation status with 11 %.¹⁹

Therefore, the following recommendations are needed to be put

forward to add additional impetus on the NECP preparation process:

5.1. Recommendation 1: Elaborate the analytical, institutional and regulatory preconditions and submit NECP

Georgia has recently passed the framework “Law of Georgia on Energy and Water Supply.” Article 7 (3) of the law mandates the country to “encompass the integrated national energy and climate plan of Georgia addressing dimensions of the energy security and solidarity, energy markets, decarbonisation, innovation and competitiveness in the energy sector.” This should be assessed as an essential statement sheltering the future work on the NECP.

Given that there is a solid legal basis adopted in December 2019, Georgia should intensify the preparation of the NECP for the period of 2021-2030 in line with EnC secretariat supporting on clarifying analytical, institutional and regulatory preconditions. NECP preparatory process should be harmonized with ongoing climate policy processes – LEDS, CAP and NDC update (see Recommendation 7.2).

As NECP development is meant to be a country-driven process defining implementable measures, *Technical Assistance* can be recommended in this context to support the national decision makers formulating the scope and the design of the NECP (see the next

¹⁶ Article 76, EnCT.

¹⁷ Article 7 (3), Law of Georgia on Energy and Water Supply.

¹⁸ E.g. Montenegro is currently focusing on amending its Energy Law to provide a legal basis for further work on the NECP.

¹⁹ Energy Community Secretariat Annual Implementation Report, November 2019, Georgia (climate), 68.

Recommendation). It could also facilitate identifying the key players in the process; establishing taskforce/technical working group and building their capacities.

A participatory process will be the basis for a successful future NECP implementation and such a process would involve the following steps:

- ❑ Gather all existing measures and documents (e.g. NEEAP, NREAP, LEDS, CAP, energy strategy, etc.);
- ❑ Consultation of all representatives of the TWG (incl. relevant ministries, agencies, business and civil society) to work together to draw current situation;
- ❑ Build the reference scenario based on current trends and existing PaMs;
- ❑ Build policy scenarios quantifying the impact of proposed PaMs;
- ❑ Consult and discuss results with the TWG members and stakeholders.
- ❑ TWG starts planning objectives and targets ahead, up to 2030/2050 as well as PaMs for each of the dimensions of the NECP.

It is very important that the plan provides predictability and perspectives until 2050 in order to ensure consistency with long-term relevant policy objectives and certainty for investment. Integration of short and long-term climate targets into NECP along with implementation action plans is crucial. In this context, EU4Climate Programme's endeavour for developing Georgia's Long-term Low

Carbon Development Strategy for 2050 should also be mentioned.²⁰ It is advisable that synergies between these processes are established and support duplications are avoided.

Lastly, a timeframe for submitting the NECP is not set by the Recommendation itself, but by the Policy Guidelines on the development of National Energy and Climate Plans under Recommendation 2018/01/MC-EnC, requesting the contracting Parties to submit the NECP by the end of 2020.

Deadline for the measure: October 2020. Global stocktake and NECP progress report expected by 2025 and then in 2030 (incl. updated NDC).

5.2. Recommendation 2: Leverage on EU Governance Regulation 2018/1999 during the NECP preparatory processes

Since the EnC Recommendation on NECP does not provide any specific guidance for the preparation of the plan, reference to the so-called "Governance Regulation" on the Governance of the Energy Union and Climate Action²¹ should be recommended for Georgia.

The Governance Regulation does not only define the scope of the NECP (Art. 3), but it also prescribes the main sections of the NECP. It could also give a clear guidance on the sectoral coverage, which can be deliberated further within the Technical Working

²⁰ Art. 15 and Annex IV of Governance Regulation can be taken into consideration when designing the Long-term strategies.

²¹ The Regulation (EU) 2018/1999 of The European Parliament and of the Council of 11 December 2018 on the Governance of the Energy Union and Climate Action.

Group context suggested in the previous recommendation.

At the time of writing, the Governance Regulation does not have a binding nature in Georgia. First, it is not yet included in the original AA unless this later is amended accordingly.²² Second, there is no formal decision taken by the EnC Ministerial Council yet on its applicability on Contracting Parties. Nevertheless, accounting on the relevant elements of the Regulation might be of high necessity for Georgia whilst elaborating the NECP.

The Regulation sets out the necessary legislative foundation for reliable, inclusive, cost-efficient, transparent and predictable governance of the Energy Union and Climate Action (governance mechanism), which ensures the achievement of the 2030 and long-term objectives and targets of the Energy Union in line with PA. Although the suggestions from the regulation are primarily developed for the EU member states, they shall be accordingly adapted to the Energy Community Contracting Parties.

What is more relevant is that the Annex I of the Governance Regulation develops the general framework (the so-called “template”) for the NECP preparation covering the five dimensions of the Energy Union as a cornerstone of the NECP.²³ National circumstances and other preconditions should be taken into consideration while designing the NECP. However, the NECP should follow the prescriptions of the Governance Regulation as much as possible. This can also be discussed further by the

recommended Technical Working Group.

Timeframe for the measure: ongoing in the course of 2020 and beyond.

5.3. Recommendation 3: Apply more regional cooperation with Energy Community CPs when preparing the NECP

A fully-functioning Energy Community requires that Contracting Parties coordinate and cooperate among each other in developing their domestic energy policies. This is why building on the regional consultation should be encouraged. As indicated in the Policy Guidelines on the development on NECP, common approaches and joint objectives can increase long-term predictability. Coordination of national policies should also prevent adverse incentives and mitigate possible counter effects of national policies for other Parties.

Regional cooperation clause (Art. 3) is one of the key pillars of the EnC Recommendation on NECP. “Contracting Parties [incl. Georgia] should identify areas suitable for joint or coordinated planning and consult with each other early on in the preparation process.” This provision is reinforced by article 12 and Annex I section 1.3. iv. and 1.4 of the Governance Regulation, which also puts emphasis on the importance of regional cooperation before finalizing the NECP.

Georgia can count on the existing platforms (e.g. Energy and Climate

²² The inclusion of Governance Regulation into revised AA should be recommended. For details, see Recommendation 3.3 on page 7.

²³ See EU Commission Communication “A Framework Strategy for a Resilient Energy Union with a Forward-Looking Climate Change Policy.”

Committee,²⁴ Energy and Climate Technical Working Group, Energy Efficiency Coordination Group, Renewable Energy Coordination Group, etc. supported by the EnC Secretariat and the European Commission) for such a regional cooperation. It should further be encouraged to undertake regional consultations on the country's own initiative. This would support the country not only in finding solutions on individual problems facing the NECP preparation, but it will also display "lessons learned"²⁵ and enhance the promotion of national interests through mutual cooperation and dialogue.

It can include Georgia's integration into pan-European energy market and energy reform process that the country is undergoing for the time being. This has been demonstrated by long-awaited opening of the energy market, as marked by the adoption of the framework energy law in Georgia last December 2019.

Deadline for the measure: ongoing in the course of 2020 and beyond.

5.4. Recommendation 4: Integrate Policy Guidelines into NECP elaboration process

It is recommended that two Policy Guidelines are reflected accordingly on the development of the NECP: 1. The General Policy Guidelines on the 2030 targets for the Contracting Parties of the Energy Community, adopted by the Ministerial Council in Skopje, North Macedonia in November 2018 – ie. one

of the pieces of EnC climate legislation. PG, although, does not provide any specific legal obligatory framework to Georgia, it should be considered in the preparation of the NECP. According to this piece, stable national energy and climate plans up to 2030 should be accompanied by three overall targets, namely for the increase of renewable energy in overall energy consumption, increased energy efficiency and reduction of greenhouse gas emissions.

2. The NECP Policy Guidelines on the development of National Energy and Climate Plans under Recommendation 2018/01/MC-EnC prepared by the Secretariat in June 2018 in cooperation with the European Commission, are more of a political guidance supporting Contracting Parties in the process of developing their NECPs. They repeat the ethos of another PG and state that the integrated national plans should cover the period from 2021 to 2030 and lay down the pathway to achieve targets set for 2030 regarding the increase of renewable energy, energy efficiency in the overall energy consumption as well as the decrease of GHG emissions.

What needs to be emphasized is that taking these Policy Guidelines into account could also be interpreted as an "endorsement" of the EU's 2030 climate & energy targets,²⁶ which is an additional leverage for Georgia in the cooperation with the European Union.

Deadline for the measure: Ongoing in the course of 2020.

²⁴ See the update on the latest - fifth Energy and Climate Committee meeting on 25 March 2020 <<https://www.energy-community.org/news/Energy-Community-News/2020/03/26.html>> accessed on 27 March 2020.

²⁵ E.g. Moldova is one of the first countries at global level that has already delivered to the UNFCCC its revised NDC on 4 March 2020.

²⁶ EU 2030 Climate & Energy Framework <https://ec.europa.eu/clima/policies/strategies/2030_en> accessed on 5 March 2020.

6. Action 4: Transpose MMR into national legislation and develop MRV legal system

Improving Georgia's transparency framework for climate action is largely dependent on a robust national monitoring and reporting system of GHG emissions reduction and climate policies. Monitoring and reporting regulatory framework in the country is in its infancy and MRV system as a whole is mostly relied on the programme or project-based support.²⁷ To illustrate that, the national greenhouse gas emissions monitoring and reporting system in place has been assessed as 32 % by EnC Annual Implementation report.²⁸

According to the performed analysis, Georgia lacks a specific national normative framework that could act as a basis for a binding MRV system. Instead, all the international climate responsibilities and commitments of Georgia are based on the international agreements and multilateral sectoral treaties (UNFCCC, Kyoto Protocol, Paris Agreement) duly ratified by the parliament of Georgia. What is more relevant is that so far there is no legal obligation for data providers (incl. industrial companies and/or GeoStat) to transfer any information to the responsible bodies. There are no formal protocols to regularly obtain data from private companies, industry associations as well as relevant ministries (MEPA,

Economy and Sustainable Development). Information is collected at a random manner on *ad hoc* basis with no sustainable reporting system in place.

It should be mentioned that the Memorandum of Understanding between MEPA and GeoStat is in place,²⁹ but it cannot be considered as a stable and obligatory legal basis for fully operating national MRV system: a) The official text of the MoU was not retrieved neither at the Legislative Herald of the Parliament of Georgia or on the web-site of the MEPA; b) According to the sources at MEPA, the MoU contains the general cooperation clauses with two entities with no explicit reference to the transfer of climate relevant data; c) Based on this information, GeoStat would not be willing to assume any additional legal obligation towards MEPA, which would require an increase of human and technical resources.

In response to this, EnC Recommendation 2 on Monitoring Mechanism Regulation (MMR)³⁰ is an important tool mandating Georgia to prepare legal and institutional preconditions for the implementation of the core elements of EU Regulation 525/2013. It, namely, establishes the sophisticated mechanism for ensuring timeliness, transparency, accuracy, consistency, comparability and completeness of monitoring GHGs and reporting to the UNFCCC secretariat.³¹

²⁷ See <https://www.ge.undp.org/content/georgia/en/home/projects/georgia_s-fourth-national-communication-and-second-biennial-upda.html> accessed on 30 March 2020.

²⁸ EnC Annual Implementation report, November 2019, p. 68.

²⁹ As a side note, the MoU has not been disclosed to the expert.

³⁰ Regulation (EU) No 525/2013 of the European Parliament and of the Council of 21 May 2013 on a mechanism for monitoring and reporting greenhouse gas emissions.

³¹ Article 1 of EU Regulation 525/2013.

For this purpose, the following key recommendations can be identified:

6.1. Recommendation 1: Clarify the “core elements” of the MRR and consolidate them with MRV development

EnC parties are preparing the legal and institutional preconditions for the implementation of MMR in their jurisdiction. Georgia is no exception. For the moment, the Regulation has not been transposed into the domestic legislation and the regulatory framework for transposing the MMR in Georgia is relatively weak. Art. 51 of the Law of Environmental Protection of Georgia establishes certain obligation of the entities, but it does establish reporting obligation. Art. 1 of the Law of Georgia on Official Statistics also indicates on country’s compliance with general UN fundamental principles, but to a very general level.

Therefore, the reference to the MMR when legalizing the monitoring and reporting national framework is crucial. Article 1 of the EnC Recommendation on Monitoring Mechanism Regulation indicates on the “core elements” of the Regulation to be implemented into national context, which needs to be defined further.

Georgia already operates a National Inventory System (Art. 5 of the Regulation), has finalized (although never adopted) LEDS (Art. 4 of the

Regulation) and submits Biennial Update Reports (BUR) and National Communications (NC) (Art. 18 of the Regulation).³² Differentiation with existing standards and definition of the scope of “core elements” should be provided before designing any specific MMR legal set-up.

The additional TA and possible feasibility study/analysis can be offered to the GoG to clarify what should be meant by “core elements” of the Regulation. It is needed for (1) addressing the missing gaps and (2) avoiding redundancy between existing structures.

It is recommended that this process is aligned with MRV system development especially given that country can leverage on the assistance of EU4Climate Programme. What can additionally be mentioned is that there is an ongoing MRV gaps analysis study undertaken currently in Georgia. Based on EU4Climate National Coordinator, the analysis is conducted by Environment Agency of Austria under EU4Climate and a set of targeted recommendations are to be developed in due course.

Timeframe for the measure:
Development of MRV to start in 2020 and be fully implemented by 2022.

³² For details please revert to the Deliverable 2.

6.2. Recommendation 2: Adopt national legislative act dedicated to GHG monitoring and reporting

There is no sophisticated national MMR legal set-up in place and the major legal gaps are associated with the failure of legislative framework and institutional structures to monitor and report the GHG in a systematic manner. Due to a lack of technical expertise and financial constraints, preparation of inventories is usually dependent on external support – being remoted from in-house internal development.

In order to systemize the process, the adoption of the dedicated legal act on MMR must be encouraged. The *Technical Assistance* on legal drafting is needed to prepare such an act and follow the process until it has been finally adopted.³³ The type of the legal act should be subject of the discussion among the relevant stakeholders, but it might be best to regulate the MMR system with secondary law with relatively simple enacting and amendments procedures.

The specific legislative act can provide the legal basis for the following:

- ☐ Formal designation of the competent authority covering the formation and implementation of the policies and measures in the area of monitoring,

reporting and verification of GHG emissions;

- ☐ Design of the template for data collection for thematic areas: GHG data, mitigation actions and support;
- ☐ Preparation of protocols and standards for the estimation of mitigation actions impacts;
- ☐ Review of the developed reports by external experts/entity and a quality control plan for all institutions involved in the system;
- ☐ Development of an archiving system for GHG inventory data and a database for mitigation actions;
- ☐ Developing a software tool for the GHG data management.

Referring to a good practice, Ukrainian example, as another EnC Contracting Party, can be taken into account. Law of Ukraine “on Monitoring, Reporting and Verification of GHG Emissions”³⁴ (so-called MRV law) has recently been adopted in Ukraine establishing a regulatory regime for monitoring, reporting and verification system (MRV system) in compliance with MRV-related provisions of Directive 2003/87/EC.³⁵ The next steps include adopting respective by-laws reflecting MRV-related provisions and designating competent authority responsible for implementation of MRV.

Apart from afore-mentioned MMR regulation, for the development of MRV

³³ See Background Paper on a Legal Setup for MRV in Georgia prepared under GIZ “Information Matters” Project (PN: 2012.9020.4-003).

³⁴ The Law of Ukraine “On Monitoring, Reporting and Verification of GHG Emissions” of 12.12.2019 No. 377-IX.

³⁵ Directive 2003/87/EC of The European Parliament and of the Council of 13 October 2003 establishing a scheme for greenhouse gas emission allowance trading within the Community and amending Council Directive 96/61/EC.

legal and regulatory framework, it is recommended to recourse to the EU's Accreditation and Verification Regulation (AVR)³⁶ for the sake of capturing the full picture of the EU's Annual Compliance Cycle.³⁷ It should, however, also be noted that this latter has not yet got binding nature upon Georgia.

Timeframe for the measure: Start in 2020 and continue further by 2022.

challenged by the lack of human resources and financial constraints.

Technical Assistance on institutionalization is recommended as well as the targeted *Capacity Building* for the relevant staff members.

Timeframe for the measure: Start in 2020 and continue further by 2022.

6.3. Recommendation 3: Institutionalize and systematize the national institutions playing an essential role in MRV system

The responsibilities for GHG Inventory and MRV for the coordinating governmental unit and data providers (collecting national climate data) should be allocated. Signing the targeted cooperation agreement or Memorandum of Understanding between them can also be encouraged.

The specific units can be created and established under the EIEC and GeoStat for effective climate MRV. Possible units are: GHG Inventory, Mitigation, Support, and Quality Assessment. Merging can be considered too depending on the structure. Institutional architecture can also develop the proposal for sustainable budget for the MRV system from governmental resources and the archiving system and a database. As mentioned above, current system is

³⁶ Commission Implementing Regulation (EU) 2018/2067 of 19 December 2018 on the verification of data and on the accreditation of verifiers pursuant to Directive 2003/87/EC of the European Parliament and of the Council.

³⁷ The detailed analysis of Annual Compliance Cycle falls beyond the scope of this Roadmap. For more information, see <https://ec.europa.eu/clima/policies/ets/monitoring_en> accessed on 31 March 2020.

7. Action 5: Streamline multiple climate policy planning processes

Legal aligning with EU climate *acquis* is not a final goal. Harmonising climate planning processes is of crucial importance too for meeting the requirements of a cooperation clause - Article 310 of the AA (see Deliverable 2). Establishment of Georgia's Climate Change Council on 23 January 2020 is a giant leap towards achieving broader stakeholder involvement and certain level on consistency.

This may also contribute to strengthening scientific knowledge, placing new technologies on the market and improving the effective communication with academia. It goes *hand-in-hand* with *research, innovation and competitiveness* concept that comes under the afore-mentioned fifth dimension of the Energy Union.

Specific recommendations for streamlining multiple climate planning processes can be read as follows:

7.1. Recommendation 1: Prepare a single, comprehensive climate-relevant legislative act

UNFCCC with its near-universal membership does put the burden on developed countries to lead the way but provides the key legal climate framework for non-Annex I countries too. In Georgian case, it provides fundamental legal foundations, as

international climate commitments are not translated into comprehensive single climate-related national legal act.

Thus, in the absence of overarching domestic legislation, effective implementation of UNFCCC requires Georgia's loyalty towards international obligations supplemented by Kyoto protocol (no binding target for Georgia) and Paris Agreement (ie. binding NDC component). In terms of two bigger pillars of climate change, if Kyoto is primarily an agreement on mitigation, Paris puts adaptation and mitigation formally on an equal footing. This eventually insist on the need to protect "people, livelihoods and ecosystems." (Art. 7, Paris Agreement).

That said, climate-relevant³⁸ national legislation - sectoral laws and regulatory measures are scattered in different legal acts. One single climate legal document would not only ensure effective implementation of Kyoto and Paris accords, but it would additionally mean Georgia's low carbon development as well as increasing ability to adapt to the adverse impact of climate change and foster climate resilience. Such a single climate act would facilitate streamlining multiple climate planning processes, ie. ensuring synergies between different workstreams and would mitigate the risk of discrepancy.

Timeframe: As of 2020 and beyond.

³⁸ On what to be meant under "climate-relevant," please see the Deliverable 1.

7.2. Recommendation 2: Align timing of policy orientations and combine the strategies

Creating multiple climate and energy strategy documents that may duplicate the content should not be encouraged. Georgian government should rather be willing to align the climate and energy strategies preparatory processes. This would include the technical as well as the timeline alignment of the policy documents being currently prepared: NDC update, CAP, LTS and NECP.

For instance, NDC update can be derived directly from decarbonisation component of the NECP and vice versa. All outputs can be produced efficiently from one process including the similar targets. The same GHG targets decided at national level transformed into international commitment be included as well as the timing can be aligned in these strategy documents.

Deadline for the measure: October 2020 (ahead of COP 26) for NECP and NDC, early 2021 for LTS.

7.3. Recommendation 3: Prioritize climate commitments and ensure donor coordination

For the implementation of climate *acquis* smooth coordination between the

governmental bodies being responsible to implement the international climate commitments and donors are of crucial importance. Coordinated by the MEPA, review and constant supervision of the ongoing donor-supported projects in the field of climate change and sustainable energy are highly welcomed.

Furthermore, all climate commitments cannot be achieved at the same time. Therefore, it is important to take into account the matters, such as the EU-negotiated deadlines, environmental urgency, large mitigation/adaptation potential, cost-effectiveness etc. The inclusion of financial institutions and other climate financing mechanisms (e.g. Green Climate Fund (GCF), Convention Adaptation Fund (AF), Climate Technologies Centre and Network (CTCN) etc.) should be further elaborated. The *technical analysis* (e.g. *background paper*) on climate donor coordination and commitments prioritization can further contribute to the smart implementation of climate *acquis* in Georgia.

Timeframe for the measure: As of 2020 and beyond.

8. Final words

Compounding the puzzle, the Deliverable 3 of the Assignment developed a Roadmap for the EU4Climate support to Georgia in the alignment with EU *acquis*. The Roadmap provides the strategic vision for EU4Climate Programme based on the gaps analysis that has been carried out in the ambit of this project.

The Roadmap identifies 5 key actions that need to be undertaken in Georgia in order to comply with EU climate commitments stemming from EU-Georgia Association Agreement and EnC framework. Where applicable, it also highlights the need for the TA and CB that can be delivered by EU4Climate Programme in cooperation with the Government of Georgia.

The five key actions include:

- ☐ Adoption of relevant national legislation implementing the provision of EU F-gas Regulation;
- ☐ Adjustment to the respective national legislation to implement the provisions of EU ODS Regulation;
- ☐ Acceleration of the preparatory process of National Energy and Climate Plan;
- ☐ Inclusion of MMR into national legislation and Development of the MRV legal system;
- ☐ Streamlining of multiple climate policy planning processes.

Some concrete steps towards achieving these overarching actions are integrated in the recommendations. The recommendations accompany to each action providing the certain level of guidance for policy makers and interested parties for the climate *acquis* implementation processes in Georgia. Where specified by the AA, EnC and/or governmental decision, the specific deadline is also assigned to each recommendation. For better illustration of the Roadmap, *excel/ GANTT* chart has also been elaborated pointing on the actions and recommendations and their respective timeline.

It is envisaged that the Roadmap to EU4Climate Programme is used for multiple purposes in the process of Georgia's alignment with EU climate *acquis*. Therefore, state authorities, line ministries, donor community, CSO/NGO representatives, business and academia, as key stakeholders of planning and implementing the climate policy and legislative framework, should have access to it.

The experience of other stakeholders can be used to fine-tune the results of the entire assignment, select and vet potential future topics to mainstream, or even find versatile support as the findings of the project mature. This approach would help safeguard the implementation of the recommendations enshrined in this Roadmap. It would also ensure that the value of designing and completing the proposed actions are carried out accordingly.