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 II: Compliance check to verify if domestic legislation in Georgia exists and/or is compatible with the EU acquis included in Bilateral Agreements on Climate Action and/or Energy Community Treaty (Deliverable 2)

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List of abbreviations

AA	EU-Georgia Association Agreement
BUR	Biennial Update Report
CDM	Clean Development Mechanism
CO_2	Carbon Dioxide
CH4	Methane
CAP	Climate Action Plan
CP	Contracting Parties
EaP	Eastern Partnership Initiative
EC	European Commission
EIE	Environmental Impact Assessment
EIEC	Environmental Information and Education Centre
EU	European Union
EnC	Energy Community
EnCT	Treaty Establishing the Energy Community
F-gas	Fluorinated Greenhouse gases
HCFC	Hydrochlorofluorocarbons
HPMP	HCFC Phase-out Management Plan
GARCAE	Georgian Association of Refrigerating, Cryogenic and Air Conditioning Engineers
GEF	Global Environmental Facility
GIZ	Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH
GCF	Green Climate Fund
GeoStat	National Statistics Office of Georgia
GoG	Government of Georgia
IPCC	Intergovernmental Panel on Climate Change

GHG	Greenhouse Gas
GWP	Global Warming Potential
KP	Kyoto Protocol
LEDS	Low Emissions Development Strategy
LEPL	Legal Entity of Public Law
LULUCF	Land Use, Land-Use Change and Forest
LTS	Long-Term Strategy for Low Emission Development
NC	National Communication
NEEAP	National Energy Efficiency Action Plan
NEAP	National Environmental Action Programmes
MEPA	Ministry of Environmental Protection and Agriculture
MRV	Measurement, Reporting and Verification
MP	Montreal Protocol
NAMA	Nationally Appropriate Mitigation Actions
NAPA	National Adaptation Programmes of Action
NAP	National Adaptation Plan
NECP	National Energy and Climate Plan
NDC	Nationally Determined Contribution
NR	National Report
ODS	Ozone Depleting Substances
PA	Paris Agreement
RES	Renewable Energy Sources
SDG	Sustainable Development Goal
UNDP	United Nations Development Programme
UNFCCC	United Nations Framework Convention on Climate Change
USAID	United States Agency for International Development

1. Background and scope

It has on several occasions been acknowledged that Georgia envisages to modernise its obsolete or rather inconsistent national legislation in close cooperation with the European Union (EU). In response to that, Georgia has recently adopted an amendment to the Law on Normative Acts and the Rules of Procedure of the Parliament of Georgia, according to which the legal drafters have now to provide information on compliance of the draft national law with the "EU law."[1] This also applies to adjustment of ill-regulated climate legislation ensuring greenhouse gas emissions reduction, increasing country's climate adaptive capacity as well as proper monitoring and reporting as obliged by the UNFCCC. The legal approximation to the EU law and policy poses serious challenges to Georgia's domestic legislation that should be upgraded in certain timeframe. On the other hand, the EU does not only impose the set of legal obligations on the local agenda, but it rather easies the heavy legal burden via the mechanics of bilateral and multilateral agreements, such as Association Agreement (AA) and Energy Community Treaty (EnCT).

By the same token, climate change remains as one of the biggest global threats that needs to be responded accordingly in Georgia. The country distinguished with its biodiversity and rich fresh water resources[2] is now encountering the risks of climate change adverse impact. This is why the mitigation and adaptation to climate change is one of the priorities of the Government of Georgia putting special emphasis on taking further steps to integrate climate risk and resilience into core country development planning and implementation.[3] The GoG also aims to improve the country's preparedness and adaptive capacity by developing climate resilient practices that reduce the vulnerability of highly exposed communities.[4]

The AA and EnCT are launching key legal processes that are shaping the climate change commitments at the local level. The legal nature and specificities of the obligations stemming from the Association Agreement and Energy Community Treaty as well as the key climate change policy instruments were explored in the Part I (Deliverable 1) of this assignment. The deliverable 1 has also provided the desk review of the EU climate *acquis* and the corresponding national regulatory framework. The previous report has additionally stressed on the general considerations of the assignment and the objectives of EU4Climate Programme, as a regional climate change initiative for the Eastern Partnership countries (EaP) financed by the European Union and implemented under the indirect management with the United Nations Development Programme (UNDP).

Therefore, reiterating the part I of the report on gap analysis of the current legislation in Georgia and development of a roadmap outlining EU4Climate support to Georgia in

[1] Article 17 (1) (c) (a) of the Law on Normative acts (as amended on 13 June 2018); Article 145 (2) (c) (a) of the Rules of Procedure of the Parliament of Georgia (as amended on 13 June 2018).
[2] See the Third National Communication of Georgia to the UN Framework Convention on Climate Change (UNFCCC).
[3] INDC of Georgia, submitted to UNFCCC on 25 September 2015.
[4] See third National Environmental Action Programme of Georgia.

alignment with EU *acquis* included in Bilateral Agreements on Climate Action and/or Energy Community Treaty, the part II (Deliverable 2) is now oriented to unfold the missing gaps in the national climate legislation against the EU climate *acquis*[5] in the light of compliance check. The latter is to verify if domestic legislation in Georgia is compatible with the EU *acquis* included in Bilateral Agreements on Climate Action and/or Energy Community Treaty. In order to measure the compliance status, the report analyses the key EU legislative acts enshrined in AA/Energy Community Treaty identified in the Deliverable 1. For better illustration and the comparison of the results, the report examines the individual requirements of EU *acquis* that Georgia has undertaken to implement in its national legislation in the form of concordance tables.

Where applicable, in the concordance tables, the report provides the specific articles in the national legislation corresponding to the obligatory provisions under the AA and EnC framework. For detailed assessment of the transposition, the level of concordance along with the explanatory comment is inserted in the last column of the table. The report writes up a short conclusion at the end of each concordance table based on the detailed review of the national legislation and performed analysis. As the final considerations of the Deliverable 2, the set of recommendations for the policy makers as well as the next steps are deployed in the last two chapters of the report.

2. Compliance review and gap analysis of the national legislative framework of Georgia vis-à-vis climate *acquis* under the Association Agreement

Georgia has signed the Association Agreement with the European Union in 2014. Upon entering in force on 1 July 2016, AA became the naturally incorporated legal act into national legal system.[6] As outlined in the Deliverable 1, Article 310 and Article 312 of the Association Agreement are of crucial climate importance. While the first refers to the Low Emission Development Strategy (LEDS), Nationally Appropriate Mitigation Actions (NAMA), National Adaptation Programmes of Action (NAPA), measures to promote technology transfer on the basis of technology needs assessment as core pillars of Georgia's incoming climate policy,[7] the Article 312 of the AA is characterized with much stronger legal relevance mandating Georgia to carry out approximation of its legislation to the EU acts and international instruments referred to in Annex XXVII.[8]

[5] For detailed analysis what is to be considered as "climate *acquis,*" see Deliverable 1 on Georgia submitted to Energy Community Secretariat on 2 December 2019.
[6] See Deliverable 1 of "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" submitted to Energy Community Secretariat on 2 December 2019.
[7] Article 310 also indicates on the measures related to ozone depleting substances and fluorinated greenhouse gases, but they are not to be stressed here since there are separate dedicated analysis on ODS and F-gas regulation in the report.
[8] Article 312 of the AA.

It is exactly this particular Annex to the AA that enshrines two key EU climate legal acts to be binding upon Georgia:

- *Regulation (EC) No 842/2006 of the European Parliament and of the Council of 17 May 2006 on certain fluorinated greenhouse gases (hereinafter "F-gas Regulation")*
- *Regulation (EC) No 1005/2009 of the European Parliament and of the Council of 16 September 2009 on substances that deplete the ozone layer (hereinafter "ODS Regulation")*
- *Article 310 of the AA, which does not specify any concrete legal act or impose formal obligation on Georgia, but it enshrines important climate policy actions for designing Georgia's national climate strategy including climate reporting framework.*

What needs to be underscored in this context is that even though new F-gas Regulation - No 517/2014[9] has been adopted in the EU respectively repealing the original F-gas Regulation (adopted in 2006), Georgia is still obliged to transpose the provisions of the original F-gas regulation (i.e. No 842/2006). The dynamic approximation[10] of F-gas regulation would only be in effect in the case of specific decision taken by the Association Council.[11] According to Article 406 of the AA, "Association Council shall have the power to decide within the scope of this Agreement. The decisions shall be binding upon the Parties." The Association Council shall have the power to update or amend the Annexes to this Agreement. Since there is no such a binding decision on renewed F-gas Regulation in place overruling the Annex XXVII of the AA, this analysis remains stick to the provisions enshrined in the original text of the Association Agreement.[12] There is an ongoing negotiation between the European Union and the government of Georgia on replacing the original F-gas regulation with the new one, but technically speaking, even if it materializes, there is no major conventual difference between these two acts.

Therefore, afore-mentioned two key EU legal acts (i.e. original F-gas Regulation and ODS regulation) along with required policy actions that have been undertaken by Georgia to transpose must be checked against the national legislation. This will seek to verify whether domestic laws in Georgia are line with the Association Agreement climate *acquis*. It should further be mentioned that AA defines the specific provisions under these two regulations to be incorporated into the national legal system within stipulated

[9] Regulation (EU) No 517/2014 of the European Parliament and of the Council of 16 April 2014 on fluorinated greenhouse gases and repealing Regulation (EC) No 842/2006;

[10] "Dynamic approximation" is one type of the legal harmonization referring to the constantly evolving nature of the EU law. It requires the legal approximation process by the country in question to be updated accordingly to the amendments to the EU law. For more details, see Samkharadze I. 'Europeanization of Energy Law and Policy beyond the Member States: The Case of Georgia,' Elsevier Energy Policy Journal, Vol. 130, 2019, 1-6.

[11] According to Article 404 of the AA, Association Council is the highest decision-making body established by the Association Agreement. It supervises and monitors the application and implementation of this Agreement and periodically review the functioning of this Agreement in the light of its objectives.

[12] The latest consolidated version of the AA (01/06/2018) published on EUR-Lex does not indicate on any amendment to the Annex XVII of the AA. For more information, see <https://eur-lex.europa.eu/homepage.html> accessed on 24 December 2019.

timeframe. Therefore, the implementation progress and existing gaps are checked against these specific provisions without digging into each regulation in its entirety. In addition to that, the compliance check of individual requirements of EU *acquis* is conducted via inserting the analysis in the concordance tables.

In the concordance table for compliance review and gap analysis with EU *acquis* under AA:

- "**Transposed"** shall mean full transposition of the respective EU climate *acquis* has taken place;
- "**Partially transposed**" shall mean partial transposition of the respective EU climate *acquis* supplemented by a comment and explanation thereto. Draft legislation can also be meant to be marked as "partially transposed."
- "**Not transposed**" shall mean failure to transpose of the respective EU climate *acquis* supplemented by a comment and explanation thereto;
- "**No transposition required**" shall mean absence of need to transpose the respective EU climate *acquis* as supplemented by a comment and explanation thereto;
- Issues that require special attention are highlighted in red.

2.1. Table of Concordance of Georgia with F-gas Regulation

Regulation (EC) No 842/2006 of the European Parliament and of the Council of 17 May 2006 on certain fluorinated greenhouse gases[13]

Country name	Georgia
Last update:	January 2020
National legislation:	№ 519-1 Law of Georgia on Environmental Protection (10/12/1996) № 2116 Law of Georgia on Ambient Air Protection (22/06/1999) № 1876 Law of Georgia on Normative Acts (22/10/2009) № 828 The Resolution of the Parliament of Georgia "On Harmonization of Georgian Legislation with the EU Law," 2/09/1997 № 302 Decree of the government of Georgia on national requirements for a mandatory certification system and training for refrigeration and air conditioning technicians (22/06/2017) № 1995 Resolution of the Parliament of Georgia on the Approval of the Kyoto Protocol of the UNFCCC (28/05/1999) № 304 Decree of the government of Georgia on establishing the technical regulations on the form of the registration journal and reporting of refrigeration and air conditioning services (27/06/2017). № 237 Decree on Amendment to the № 302 Decree of the government of Georgia on national requirements for a mandatory certification system and training for refrigeration and air conditioning technicians (18/05/2018) № 161 Administrative Offences Code of Georgia (15/12/1984)
Remarks:	Issues that require special attention are highlighted in red.
Abbreviations:	F gases regulation = Regulation (EC) No 842/2006 GARCAE = Georgian Association of Refrigerating, Cryogenic and Air Conditioning Engineers LoEP = 1996 Law of Georgia on Environmental Protection (№ 519-1, 10/12/1996) LoAAP = 1999 Law of Georgia on Ambient Air Protection (№ 2116, 22/06/1999) № 302 Decree = № 302 Decree of the government of Georgia

[13] It should be noted that new F-gas Regulation (EU) No 517/2014 does not apply in this context. See the argumentation above under the section 2.

	№ 304 Decree = № 304 Decree of the government of Georgia № 237 Decree = An Amendment to the № 302 Decree of the government of Georgia Centre = LEPL the Environmental Information and Education Centre Code = Administrative Offences Code of Georgia

[Regulation 842/2006]		National legislation		Level of concordance / comment
Art.	**Provision / Transposition deadline**	**Art. / Law**	**Specific provision**	
N/A	Adoption of national legislation and designation of competent authority/ies; *This requirement is not linked to a specific article in the EU F-gas regulation, but it, nonetheless, establishes general transposition requirement.* *'Fluorinated greenhouse gases' means hydrofluorocarbons (HFCs), perfluorocarbons (PFCs) and sulphur hexafluoride (SF6).*[14] <u>Deadline:</u> Five years upon entry into force of	Art. 55 LoAAP Art. 7[1] (2) LoAAP	"The Ministry of Environmental Protection and Agriculture of Georgia should be designated as a competent authority for establishing the rules on monitoring, reporting and recovering the F-gases as well as prevention the emissions and additional measures." "The control of the fulfilment of the obligations by the owner and technician of the refrigerator stationary equipment is carried out by the State Sub-department of the Ministry of Environment Protection and Agriculture of Georgia - Department of Environmental Supervision."[15]	- Partially transposed It must be noted that albeit existing legislation does attribute several functions to the MEPA, the formal designation of a Competent Authority[16] is envisioned by the draft law №1663 registered on 7 December 2017 amending the LoAAP via adding the point 5 and 6 to Article 55 of LoAAP. The adoption of national legislation could mean the acceptance of domestic

[14] For detailed list including chemical formula and GWP see Annex I to the F-gas Regulation.
[15] An amendment to the LoAAP registered as №1663 registered on 7 December 2017.
[16] The term "competent authority" is a generic term used by the European Union signifying an authority in the EU Member State government entrusted with implementation tasks related to a particular piece of legislation. In Georgian context, this can be an authority in the GoG being responsible for the implementation of the EU legal act. Thus, designated competent authority for F-gas as well as the ODS regulation in Georgia should cover many functions ranging from preparing the certain amendments to the law to enforcing the regulation.

	this Agreement, ie. July 2021.			regulations and any additional provisions required making the EU F-gas Regulation functioning in Georgia. The legislation which contains the EU F-gas Regulation rules to be transposed will need to be adopted and implemented. This is described in detail in the present concordance table.
[5]	Establishment/adaptation of national training and certification requirements for relevant personnel and companies <u>Deadline:</u> Seven years upon entry into force of this Agreement, ie. July 2023.	Art. 54[1] LoAAP Art. 8 LoEP Art. 27[1] LoEP Art. 1-9 № 302 Decree	"For the reduction of the emission of refrigerant into the atmosphere on the territory of Georgia, it is mandatory for the refrigeration systems and heat pumps to comply with safety and environmental protection standards." "The Legal Entity under Public Law called the Environmental Information and Education Centre ('the Centre') shall be set up within the system of the Ministry in order to support the raising of environmental awareness in society, and the training and retraining of relevant specialists and the upgrade of qualifications." "The goals of the Centre are […] b) organise courses and teaching to train, retrain and upgrade the qualifications of experts in respective fields Law on Ambient Air Protection." Decree of the government of Georgia on national requirements for a mandatory certification system and training for refrigeration and air conditioning technicians adopted on the basis of the amendment to the LoAAP (13/04/2016, №4951-IIს). Decree of the government of Georgia on establishing the technical	- Partially transposed. It should be noted that conglomeration of the provided national legislation clauses (primary and secondary laws) create the legal basis for establishment/adaptation of national training and certification requirements in Georgia. Therefore, this requirement is met especially in the aftermath of the adoption of the special regulatory law - № 302 Decree of the government of Georgia on national requirements for a mandatory certification system and training for refrigeration and air conditioning technicians.[17]

[17] It should also be noted that training of some technicians is occasionally carried out by the Training centre of the Georgian Association of Refrigerating, Cryogenic and Air conditioning Engineers (GARCAE). The training course covers safety requirements for handling natural refrigerants as well as the methods of conversion of installations from ODS to an alternative refrigerant.

		Art. 1-8 № 304 Decree Art. 1 № 237 Decree	regulations on the form of the registration journal and reporting of refrigeration and air conditioning services on the basis of the amendment to the LoAAP (13/04/2016, №4951-IIს). “The rules on certification and issuance of appropriate certificate is provided by the Legal Entity of Public Law of the Ministry of Environment Protection and Agriculture of Georgia - Environmental Information and Education.”	What needs to be, however, mentioned is that the set of the norms as per described in this concordance table covers the biggest sector of the stationary applications, such as refrigeration, heat pump equipment and air conditioning containing certain fluorinated gases. Other sectors, such as, namely mobile air conditioning, fire protection, Electrical switchgear and F-gas based solvents sector are to be included in the forthcoming F-gas technical regulation. At the time of writing, these latter sectors are included in the existing national framework at a minimal level. It should also be mentioned that the certification system/mechanism is interchangeable for F-gas and ODS (to be explained in detail below) according to the Georgian national regulatory framework. № Decree 302 tables the detailed certification rules to be coordinated by the Centre.

[6]	Establishment of (internal) reporting systems for acquiring emission data from the relevant sectors <u>Deadline:</u> Eight years upon entry into force of this Agreement, ie. July 2024.	Art. 38 LoAAP Art. 5 № 304 Decree	"1. An operator shall ensure accurate self-monitoring of emissions of harmful substances from stationary sources of pollution. 2. Self-monitoring of emissions of harmful substances from stationary sources of pollution comprises: […] c) reporting on emissions." "The conduct of the registration journal of refrigeration and air conditioning services. 1. The registration journal is filled in to describe each of the refrigeration and air conditioning services related to the leakage, removal and/or addition of a refrigerant."	- Transposed. As in the case of the previous provision, the obligation on establishment of internal reporting systems are fulfilled for the main sector excluding F-gas based solvents, fire protection systems and fire extinguishers. Furthermore, the reporting system can be identical or in parallel to the one of the UNFCCC, which will be touched upon below. It should also be mentioned in the context that previously some F-gas related emissions have been estimated by industry experts mostly from Georgian Association of Refrigerating, Cryogenic and Air Conditioning Engineers (GARCAE).[18]
[13]	Establishment of enforcement system <u>Deadline:</u> Seven years upon entry into force of this Agreement, ie. July 2023.	Art. 69 Code Art. 69[6] Code	"1. Violation of the regulations laid down by the environmental legislation shall carry a fine from GEL 100 to GEL 300. 2. The same act committed by the person to whom an administrative penalty has been imposed during the year for the violation provided in this article shall carry a fine from GEL 200 to GEL 400." "Violation of the requirements established in the field of air conditioning and refrigeration equipment services	- Transposed. In general, it can be argued that there is an enforcement system established and in place for quite some time governed by the Administrative

[18] For more information, please follow the link: <http://www.ashraeasa.org/pdf/Members/GARCAE-Georgia.pdf> accessed on 13 January 2020.

			1. Acceptance of services of a non-certified technician by a business entity owning the air conditioning and refrigeration equipment specified in the Law of Georgia on Ambient Air Protection – shall carry a fine of GEL 100 for the business entity owning the air conditioning and refrigeration equipment. 2. The same act committed repeatedly – shall carry a fine of GEL 200 for the business entity owning the air conditioning and refrigeration equipment. 3. Maintenance of the air conditioning and refrigeration equipment specified in the Law of Georgia on Ambient Air Protection by a non-certified technician – shall carry a fine of GEL 200 for the non-certified technician. 4. The same act committed repeatedly – shall carry a fine of GEL 400 for the non-certified technician."	Offences Code of Georgia. The main task of enforcing the national provisions lies under the responsibility of the competent authority (ie. MEPA) supported by the National Bureau of Enforcement.[19]

2.2. Concluding remarks regarding the transposition of the F-gas Regulation

The primary objective of the EU F-gas regulation is to reduce the emissions of the fluorinated gases covered by the Kyoto Protocol.[20] However, what needs to be emphasized is that these gases (HFCs, PFCs and SF6[21]) are not produced in Georgia. They are imported for domestic consumption and, therefore, emissions are generated mostly from their use. Calculation of halocarbons emission is, nonetheless, crucial, as they are characterized by stability. These gases do not have ozone depleting potential (ODP) but - high global warming potentials (GWP) and contribute to climate change. Thus, Georgia committed to UNFCCC/KP is in an utmost necessity to take specific measures against controlling the fluorinated greenhouse gases. This also ties up with the Clean Development Mechanism (CDM) process as one of the three mechanisms established by the Kyoto Protocol. As defined by Article 12 of the Kyoto Protocol, "the purpose of the clean development mechanism shall be to assist Parties not included in Annex I in achieving sustainable development and in contributing to the ultimate objective of the Convention, and to assist Parties included in Annex I in achieving compliance

[19] For more information, please visit the official website of the National Bureau of Enforcement at <http://nbe.gov.ge/?lang_id=GEO> accessed on 12 January 2020.
[20] Article 1, F-gas Regulation.
[21] See the detailed list of the gases in the respective Annex II below.

with their quantified emission limitation and reduction commitments under Article 3." Given this, aligning the domestic legislation to the EU F-gas Regulation does not only come in conformity with the AA implementation, but it also contributes to the UNFCCC/KP process.

This particular concordance table displays the *status quo* with respect to the specific provisions of the AA and concludes that there is no specific F-gas governing primary or secondary law in place. Based on the performed analysis, there are certain national provisions in Georgian legislation that correspond to the AA, but their general nature does not set out any specific measures related to climate protecting F-gas framework. It must also be emphasized that a good number of specific amendments have already been applied in the domestic legal system, which partially ensure the implementation of the F-gas Regulation requirements. Apart from already integrated amendments, the corresponding draft laws are now pending to the final approvals. In this context, the draft law, an amendment (№1663) to the 1999 Law of Georgia on Ambient Air Protection registered on 7 December 2017 should be mentioned. It does not only contain some of the specific provisions itself (described in the chart above) to implement the EU F-gas regulation, but it also indicates (Art. 12 (5)) on the technical regulation that needs to be prepared and adopted by the GoG in due course. The latter will detail a legal pathway towards the full implementation of the F-gas regulation. It also needs to be mentioned that this process is already slightly delayed, as Art. 13 of the draft law (No. 1663) mandates the Government of Georgia to adopt such a technical regalement by January 2020. However, the preparation of the F-gas technical regulation should now be accelerated via the support of a local consultant under EU4Climate project.

2.3. Table of Concordance of Georgia with ODS Regulation

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

Country name	Georgia
Last update:	January 2020
National legislation:	№ 519-1 Law of Georgia on Environmental Protection (10/12/1996) № 2116 Law of Georgia on Ambient Air Protection (22/06/1999) № 1876 Law of Georgia on Normative Acts (22/10/2009)

	№ 828 The Resolution of the Parliament of Georgia “On Harmonization of Georgian Legislation with the EU Law,” 2/09/1997 № 302 Decree of the government of Georgia on national requirements for a mandatory certification system and training for refrigeration and air conditioning technicians (22/06/2017) № 304 Decree of the government of Georgia on establishing the technical regulations on the form of the registration journal and reporting of refrigeration and air conditioning services (27/06/2017) № 266 Ordinance of the government of Georgia on the approval of the Regulations for the procedure of issuance of a permit for production, transportation, import, export, re-export or transit of restricted substances and its yearly import quota. (17/06/2017) № 161 Administrative Offences Code of Georgia (15/12/1984) № 1775 Law of Georgia on Licenses and Permits (24/06/2005)
Remarks:	Issues that require special attention are highlighted in red.
Abbreviations:	ODS Regulation = EU ODS Regulation 1005/2009 LoEP = 1996 Law of Georgia on Environmental Protection (№ 519-1, 10/12/1996) LoAAP = 1999 Law of Georgia on Ambient Air Protection (№ 2116, 22/06/1999) LoLP = Law of Georgia on Licenses and Permits (24/06/2005) № 302 Decree = № 302 Decree of the government of Georgia № 266 Ordinance = № 266 Ordinance of the government of Georgia № 304 Decree = № 304 Decree of the government of Georgia Centre = LEPL the Environmental Information and Education Centre Code = Administrative Offences Code of Georgia

[Regulation 1005/2009]		**National legislation**		**Level of concordance / comment**
Art.	**Provision / Transposition deadline**	**Art. / Law**	**Specific provision**	
N/A	Adoption of national legislation and designation of competent authority/ies;	Art. 13 LoEP	“Powers of the Ministry [Ministry of Environmental Protection and Agriculture of Georgia] in the field of environmental protection: r) monitor ozone-depleting substances in the territory of Georgia;”	- Transposed. It should be noted that

	Ozone Depleting Substances[22] *are greenhouse gases but are not controlled by UNFCCC and KP. It is rather related to the framework established by Vienna Convention for the Protection of the Ozone Layer and the Montreal Protocol on Substances that Deplete the Ozone Layer.*[23] <u>Deadline:</u> Five years upon entry into force of this Agreement, ie. July 2021.	Art. 54 (4) LoAAP	"The Ministry [MEPA] shall coordinate the development and implementation of the national programme and the action plan for gradual removal of ozone depleting substances from consumption in order for Georgia to fulfil the commitments under the Montreal Protocol of 16 September 1987 on Substances that Deplete the Ozone Layer."	existing legislation, unlike the F-gas regulation, does indicate on formal designation of a Competent Authority[24] enshrined in afore-named two main laws of Georgia in the field of climate change: a) LoEP – Art. 13; b) LoAAP – Art. 54. As for the national legislation, similar to the case of F-gas Regulation, the adoption of national legislation could mean the acceptance of domestic regulations and any additional provisions required making the provisions of EU F-gas Regulation functioning in Georgia. The specific legislation which contains the EU F-gas Regulation rules and principles to be transposed will need to be adopted and implemented in due course. This is described in detail in the present concordance table.
[4]	Establishment of a ban on the production of controlled substances, except for specific	Art. 52 (1)	"An operator shall reduce or terminate the production or use of chemical agents (substances) that affect and decompose the earth's	- Transposed.

[22] The detailed list of the controlled substances can be found in Annex I to the ODS Regulation.
[23] Georgia became the party to Vienna and Montreal (ODS report)
[24] See *supra note 16* above for defining the term "competent authority."

	uses <u>Deadline:</u> Five years upon entry into force of this Agreement, ie. July 2023.	LoEP Art. 54 (1) LoAAP	ozone layer." "Gradual reduction or termination of production and use of chemical substances that affect the ozone layer and cause its depletion is mandatory throughout the whole territory of Georgia, in order to protect the ozone layer and fulfil the commitments of Georgia under the Convention on Protection of the Ozone Layer and under the Montreal Protocol on Substances that Deplete the Ozone Layer."	A ban on the production of controlled substances has been in place since the adoption of two key climate-relevant laws in Georgia (ie. LoEP and LoAAP).
N/A	Establishment of a ban on the placing on the market and use of controlled substances and for reclaimed HCFCs which might be used as refrigerants, according to the obligations of Georgia taken under the Montreal Protocol (Articles 5 and 11). Georgia will freeze the consumption of HCFCs at baseline level by 2013, decrease the consumption by 10 % in 2015, by 35 % in 2020, by 67,5 % in 2025 and Phase out by 2030 (except 2,5 % for servicing use up to 2040) <u>Deadline:</u> Fifteen years upon entry into force of this Agreement, ie. July 2031.	Art. 54 (5) LoAAP Art. 1 (1) 266 Ordinance Art. 6 (1) 266 Ordinance	"The legal framework for the ozone layer protection within the jurisdiction of Georgia shall be determined by the Ordinance of the Government of Georgia on the approval of the Regulations for the procedure of issuance of a permit for production, transportation, import, export, re-export or transit of restricted substances and its yearly import quota." "The purpose of this technical regulations is to lay down the procedure of issuance of a permit for production, transportation, import, export, re-export or transit of restricted substances and its yearly import quota." "The annual quota for ozone depleting substances are established via the Approval of the Annual Import Quota for Substances adopted by the order of the Minister of MEPA each year before 20 December 2020.	- Partially transposed. It must be noted that quota has been allocated by the 266 Ordinance based on the amendment to the LoAAP (13/04/2016 №4951-IIს). The commitment "Georgia will freeze the consumption of HCFCs at baseline level by 2013, decrease the consumption by 10 % in 2015" can be considered as achieved,[25] while for "by 35 % in 2020" quota has been set and "by 67,5 % in 2025 and Phase out by 2030" seems to be promising.
[Chap-ter III]	Definition of the conditions for the production, placing on the market and use of controlled substances for exempted uses as feedstock, process agents, for essential laboratory and analytical uses,	Art. 1 (1) 266 Ordinance	"The purpose of this technical regulations is to lay down the procedure of issuance of a permit for production, transportation, import, export, re-export or transit of restricted substances and its yearly import quota." "Quarantine of Methyl Bromide and prior use for purposes of	Partially Transposed. It should be stressed that the implementation of this provision is largely dependent on the latest

[25] Interview with the Ministry of Environmental Protection and Agriculture of Georgia.

	critical uses of halons. The use of Methyl Bromide will be only allowed for critical uses and Quarantine and Pre-shipment applications in Georgia <u>Deadline:</u> Five years upon entry into force of this Agreement, ie. July 2023.	Art. 38[1] (v) LoAAP Art. 38[1] (3) LoAAP	importation - also detailed information on the substance, the purpose and time of consumption and the location of this substance." "For the permit of the import of the banned substances, together with the documentation for receiving the permit application must include a certificate of origin of this particular substance, country of export by the competent authority for export permit issued for a specific substance and the detailed description of usage the substance for laboratory and/or analytical purposes, including the need for substance use, and the explanation that there is no alternative of this substance to be used.[26]	draft law (an amendment package) amending the LoAAP. 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.[27] Therefore, the draft law is not yet registered in the draft laws database of the Parliament of Georgia and is yet not publicized.
[27]	Establishment of a licensing system for the import and export of controlled substances for exempted uses (Chapter IV) and reporting obligations for undertakings <u>Deadline:</u> Five years upon entry into force of this Agreement, ie. July 2023.	Art. 54 (2) LoAAP Art. 38[1] LoAAP Art. 24 (7[2]) LoLP	"Import, export, re-export and transit of products containing ozone depleting chemicals shall be carried out on the basis of a permit provided for by Article 24(7) of the Law of Georgia on Licences and Permits." Permission to import, export, re-export and transit ozone depleting substances in the form of simple administrative proceedings, "On Licenses and Permits" of Georgia Law, this Law and "Import, Export, Re-export and Export of Ozone Substances" "Types of the permits: Permit for Import, Export, Re-export and Transit of ozone depleting substances."	- Partially Transposed. As a side note, it should be emphasized that the Revenue Service, as a legal entity of public law of the Ministry of Finance of Georgia,[29] which executes state control on the whole territory of Georgia, is also involved in the monitoring and controlling of the ODS imports by its customs department. It namely identifies and inspects ODS containing products

[26] The draft law is being prepared jointly by MEPA and ongoing UNDP HCFC Phase-Out project, but not publicized yet.
[27] For detailed information on the project, please visit the following website: <https://www.ge.undp.org/content/georgia/en/home/projects/hcfc-phase-out-management-plan.html> accessed on 11 January 2020.

		Art. 24 (7[4]) LoLP	"Permit for the Import, Export, Re-export and Transit of Substances under the Montreal Protocol."[28]	at the border and is regularly reporting the data to MEPA.
[22]	Establishment of obligations to recover, recycle, reclaim and destruct used controlled substances. Deadline: Five years upon entry into force of this Agreement, ie. July 2021.	--	---	- Not transposed. Shedding some lights on the requirement of the provision, it is obligatory that controlled substances in refrigeration, heat-pump and air-conditioning equipment (main sector as described above) as well as the equipment containing solvents and fire protection systems to be recovered during servicing or before dismantling. Although, no specific provision has been traced in national legislation corresponding the Article 22 of ODS Regulation, it should be mentioned that in 2005, two Refrigerant Recycling and Reclamation Centres for used ODS refrigerants have been established in Georgia (Tbilisi and Kutaisi) for recycling and reclamation of HCFC-22 refrigerants.[30] As for the

[29] See the official website at <https://www.rs.ge/1340> accessed on 12 January 2020.
[28] The draft law is being prepared jointly by MEPA and ongoing UNDP HCFC Phase-Out project, but not publicized yet.
[30] For detailed information, check HCFC Phase-Out Management Plan achieved results available at <https://www.ge.undp.org/content/georgia/en/home/projects/hcfc-phase-out-management-plan.html> accessed on 12 January 2020.

				destruction facility, it does not exist in Georgia. Therefore, the recovered substances that cannot be re-used are being exported.
[23]	Establishment of procedures for monitoring and inspecting leakages of controlled substances Deadline: Seven years upon entry into force of this Agreement, ie. July 2023.	Art. 7[1] (2) LoAAP	"The owner of 3 kg or more than 3 kg of refrigerant device is obliged to minimize leakage of the refrigerants and produce leakage monitoring "On the approval of technical regulations on equipment and systems for substances specified in the Montreal Protocol" issued by the government of Georgia.[31]	- Partially transposed. This particular provision requires undertakings to take all possible measures to prevent leakages and emissions, especially from equipment with ODS refrigerants. Some examples of activities until 2013 are mentioned here, listed in the "Project Proposal for the HCFC phase-out management plan (stage I, second tranche)": a) The national code of practice for refrigeration technicians was updated to cover HCFCs, and to some extent, HFC-based alternative blends; b) 150 technicians and 10 trainers were trained in good practice. c) New training modules for recovery and recycling, retrofitting and new technologies for use

[31] The draft law not identified yet, not publicized.

				in three vocational schools were developed. d) The refrigeration technicians can also access information online at a webpage of the Georgian Refrigeration Association. e) Five trainers and 30 customs officers were trained, information and guidance for customs officers on operationalization the licensing system was drafted, and a refrigerant analyser was provided to the customs office.[32]

2.4. Concluding remarks regarding the transposition of the ODS Regulation

It is widely recognized that continued emissions of ozone depleting substances cause significant damage to the ozone layer. Against this proposition, the objective of the ODS Regulation is to fulfil the obligations of the Montreal Protocol on substances that deplete the ozone layer, to which Georgia is party to. It, thus, lays down the rules on the production, import, export, placing on the market, use, recovery, recycling, reclamation and destruction of substances that deplete the ozone layer, on the reporting of information related to those substances and on the import, export, placing on the market and use of products and equipment containing or relying on those substances.[33] To achieve this goal, the EU ODS Regulation imposes a number of measures on Georgia aiming at minimizing the use of ozone depleting substances. It is to highlight that some ODSs are banned altogether, while others are allowed for specific applications or up to a certain quantity. EU ODS Regulation is a comprehensive legal framework regulating the production, import, export, placing on the market, use, recovery, recycling, reclamation and destruction of ODS, the reporting related to ODS, the export-import rules and the

[32] For detailed analysis, please see EU-funded Clima East Expert Facility project report: “Report and a Roadmap for the Approximation of Georgian law on F-gases and ODS to the EU law under the Association Agreement of Georgia” (CEEF2015-056-GE).
[33] Article 1, ODS Regulation.

placing on the market and use of products and equipment containing or relying on ODS. There are various rules and measures laid down by the ODS Regulations, but only specific provisions es enshrined in the EU-Georgia AA are of a particular highlight of this assignment.

The concordance table above traces the implementation progress of these specific provisions in Georgian domestic legislation and displays correlation between the obligatory provisions and existing/draft laws in place. What can be summarized from this analysis is that the effective implementation of the ODS Regulation in Georgia is underway, facilitated by three factors, *inter alia*: a) a general interest of the government of Georgia to comply with the EU commitments; b) market demand and c) certain proactivity by Georgia's refrigerators association.

Furthermore, the ODS Regulation implementation process is coupled with the 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. 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.[34] It should also be stressed that compliance can be found regarding the HCFC phase-out, which is assisted by UNDP by the 2013 introduction of a two-staged HCFC Phase-out Management Plan (HPMP) supported by UNDP to enable Georgia to meet obligations under the Montreal Protocol and its amendments.[35]

2.5. Table of Concordance of Georgia with climate policy and climate-related reporting obligations under AA

Article 310: The cooperation clause referring to key climate policy actions gearing towards designing Georgia's national climate strategy

Country name	Georgia
Last update:	January 2020
National legislation:	№ 519-1 Law of Georgia on Environmental Protection (10/12/1996) № 2116 Law of Georgia on Ambient Air Protection (22/06/1999)

[34] See, <http://www.multilateralfund.org/default.aspx> accessed on 10 January 2020.
[35] Project document available at <https://www.ge.undp.org/content/dam/georgia/docs/prodocs/hcfc_prodoc.pdf> accessed on 14 January 2020.

	№ 1876 Law of Georgia on Normative Acts (22/10/2009) № 828 The Resolution of the Parliament of Georgia "On Harmonization of Georgian Legislation with the EU Law," 2/09/1997 № 2328 Decree of the Government of Georgia on the Approval of National Strategy Document of Sustainable Development Goals (12/11/2019) №1124 Decree of the Government of Georgia on the Approval of the Third National Environmental Action Programme of Georgia (22/05/2018)
Remarks:	Issues that require special attention are highlighted in red.
Abbreviations:	NAMA = Nationally Appropriate Mitigation Actions NAPA = National Adaptation Plan of Action MRV = monitoring verification reporting LEDS = Low Emissions Development Strategy

[Article 310 AA]		**National legislation**		**Level of concordance / comment**
Art.	**Provision / Transposition deadline**	**Art. / Law**	**Specific provision**	
[a]	National Adaptation Plan of Action (NAPA) Deadline: No specific deadline.	--	No national provision. *The implementation status can be checked against the national policies and strategies in place or in preparation.*	- Partially transposed. Georgia's National Adaptation Plan in preparation since 2016. Not yet adopted by the GoG. However, Climate Change National Adaptation Plan for Georgia's Agriculture Sector has been prepared and published in 2017 by LEPL "Environmental Information and Education Centre."[36]
[b]	Low Emissions Development Strategy (LEDS), including nationally	--		- Partially transposed.

[36] The full document available at <http://eiec.gov.ge/%E1%83%97%E1%83%94%E1%83%9B%E1%83%94%E1%83%91%E1%83%98/%E1%83%99%E1%83%9A%E1%83%98%E1%83%9B%E1%83%90%E1%83%A2%E1%83%98%E1%83%A1-%E1%83%AA%E1%83%95%E1%83%9A%E1%83%98%E1%83%9A%E1%83%94%E1%83%91%E1%83%90/Project/Ended-Projects/Nap-English.aspx> accessed on 18 December 2019.

	appropriate mitigation actions (NAMA) <u>Deadline:</u> No specific deadline.			LEDS has been prepared and finalised by USAID-funded EC-LEDS Programme in September 2017.[37] It has not, however, been yet adopted by the government. Some actions defined by the strategy have been transferred into the Third National Environmental Action Plan 2017-2020.[38] To a large degree, the measures planned within LEDS and the actions to be implemented to fulfil Georgia's commitments under the AA and EnC are harmonized. Thus, implementation of the measures stipulated by LEDS should in fact contribute to the fulfilment of the EU climate *acquis* commitments. Georgia is involved in the preparation and implementation of NAMA projects. NAMA on Adaptive Sustainable Forest Management in Borjomi-Bakuriani Forest District has been completed.[39] NAMA on Efficient use of biomass for equitable, climate proof and sustainable rural development and Low Carbon Buildings in Georgia are under implementation.[40]
[c]	Measures to promote technology transfer on the basis of technology needs assessment	--		Not considered in detail in this report due to its little legal relevance for the scope of the analysis.
[d]	Measures related to ozone-depleting substances and fluorinated greenhouse gases[41]	--		--

[37] The full document available at <https://www.decisionwaregroup.com/assets/wi-172_2017-09-14-georgia-s-low-emission-develdevelopment-strategy_eng.pdf> accessed on 17 January 2020.
[38] The full document available at <http://extwprlegs1.fao.org/docs/pdf/geo180258.pdf> accessed on 12 December 2019.
[39] It should also be noted that Vertically Integrated Nationally Appropriate Mitigation Action (V-NAMA) on Urban Transport has been initiated by the support of German government with no further development.
[40] Georgia's NAMAs registered in the UNFCCC NAMA Registry: <http://www4.unfccc.int/sites/nama/SitePages/Country.aspx?CountryId=66> accessed on 20 December 2019.
[41] Not to be considered in detail as discussed substantially in the previous sections. See table of concordance 1 and 2.

2.6. Description and analysis of the concordance tables for Georgia's implementation of EU *acquis* under AA and further steps

The concordance tables above verify whether national regulatory framework in Georgia is line with the Association Agreement climate *acquis.* The analysis includes the respective provisions of the F-gas and ODS Regulations as well as Article 310 of the AA gearing towards designing Georgia's national climate strategy. The assessment shows that overall implementation of the Regulations in question should be evaluated as *effective and positive* for closing the legal gaps in national legislation in estimated and previously negotiated timeline with the EU.

In the case of F-gas Regulation, 2 (Articles 6 and 13) out of 4 specific provisions should be considered *transposed,* while other two are *partially transposed.* The matching national provisions have been mostly found in the framework climate laws - LoAAP and LoEP, the Code of Administrative Offences as well as in the secondary legislation (No 302 Decree and No 304 Decree by the Government of Georgia). The main gaps are associated with the designation of competent authority and introducing the national training and certification requirement (Article 5). This is because the competent authority designation is envisaged by the draft law (No 1663) amending the LoAAP via adding the point 5 and 6 to Article 55 and the certification requirement only covers the biggest sector of the stationary applications, such as refrigeration, heat pump equipment and air conditioning. The technical regulation on F-gas as envisioned by Art. 12 (5) of above-named draft law seems to be a solution to minimise the gaps in-between the EU requirements and national legislation.

In the case of ODS Regulation, 2 out of 7 specific provisions should be considered *fully transposed.* 4 Provisions remain *partially transposed* and one provision is in shortage of being incorporated into national legislation. The scrutiny of a national legislation indicates that the starting point of the ODS Regulation transposition in Georgian national legislation was in a better position in comparison with F-gas Regulation. Namely, the competent authority (ie. Ministry of Environmental Protection and Agriculture) has for quite some time been already designated by virtue of Article 13 of LoEP and Article 54 (4) LoAAP. The ban of the production of controlled substances (Art. 4 ODS Regulation) has also been in place before the signature of the AA according to Art. 52 (1) of LoEP and Art. 54 (1) LoAAP. The main gaps are associated with the controlled substances for exempted uses as feedstock and for essential laboratory and analytical uses as well as inspecting leakages (Art. 23 ODS Regulation) unless the draft law (under the preparation, but not published yet) amending the LoAAP are not adopted in due course. Last but not least, no responding national provisions have been found with regard to obligations to recover, recycle, reclaim and destruct used controlled substances (Art. 22 of ODS Regulation) in existing legislation nor in the draft laws that have been disclosed to the expert working on the assignment. Therefore, this latter is considered as *"not transposed"* to be dealt accordingly by July 2021 (the specific deadline for this provision).

Article 310 of the AA, as a cooperative clause referring to the climate policy should be considered as crucial in terms of designing the effective climate policy. However, since

Article 310 does not specify any concrete climate *acquis* and their supplementary clauses to be transposed in the national legal system, no specific provisions in the national legislation were tracked down.[42] Compliance status have been, therefore, checked against the existing climate policy guiding documents and strategies and can be evaluated as partially transposed. LEDS has been finalized, but not adopted by the Government of Georgia, while NAPA has not been finished yet and NAMAs are either being implemented or under preparation.

3. Compliance review and gap analysis of the national legislative framework of Georgia vis-à-vis climate *acquis* under the Energy Community Treaty

On 1 July 2017 Georgia has acceded to the Energy Community Treaty regulated by the Protocol Concerning the Accession to the Treaty Establishing the Energy Community.[43] According to Article 10 of the Treaty Establishing the Energy Community, Georgia "shall implement the *Acquis Communautarie* on energy in compliance with the timetable for the implementation of those measures set out in Annex I."[44] Does Annex I include climate relevant *acquis*?

Deliverable 1 has briefly stressed on what can be considered as "climate-relevant" legislation and concluded that there is no pre-defined formula of this kind. It, however, further argued that this assignment concentrates on the classic climate laws establishing a clear human-caused GHG emissions reduction potential and forming a tool (legal, political, technical or financial) for climate mitigation and/or adaptation.[45]

Accounting on this assumption, the so-called climate relevant *acquis* is not included in the Annex I. The legal obligation rather comes along in a form of a Recommendation, which is considered as a "soft law" instrument, which is not be legally binding upon Georgia. Nevertheless, since the recommendations are made by the Ministerial Council, as the highest decision-making body of the Energy Community, it is highly recommended for Georgia to "use their best endeavours to carry out recommendations" by virtue of its accession to the Energy Community.[46]

Therefore, for the purpose of the Deliverable 2, the following pieces of legislation must be taken into account to be respectively checked against the domestic legislation:

[42] In fact, there is no specific references to LEDS, NAMA and NAPA in the national legislation. The framework climate change laws do not specifically address these policy actions but create the general framework for climate strategies.
[43] Protocol Concerning the Accession to the Treaty Establishing the Energy Community.
[44] Article 10 of ENCT.
[45] See Deliverable 1 of "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" submitted to Energy Community Secretariat on 2 December 2019.
[46] Article 76 of EnCT.

- *Recommendation on preparing for the development of integrated national energy and climate plans by the Contracting Parties of the Energy Community* (hereinafter "EnC Recommendation 1")
- *Recommendation on preparing for the implementation of Regulation (EU) 525/2013 on a mechanism for monitoring and reporting greenhouse gas emissions*[47] (hereinafter "EnC Recommendation 2").
- The *General Policy Guidelines on the 2030 targets for the Contracting Parties of the Energy Community* (hereinafter "Policy Guidelines").[48]

Similar to the case of the Association Agreement, the concordance table is used for compliance review and gap analysis with EU *acquis* under EnC:

- "**Transposed"** shall mean full transposition of the respective EU climate *acquis* has taken place;
- "**Partially transposed**" shall mean partial transposition of the respective EU climate *acquis* supplemented by a comment and explanation thereto. Draft legislation can also be meant to be marked as "partially transposed."
- "**Not transposed**" shall mean failure to transpose of the respective EU climate *acquis* supplemented by a comment and explanation thereto;
- "**No transposition required**" shall mean absence of need to transpose the respective EU climate *acquis* as supplemented by a comment and explanation thereto;
- Issues that require special attention are highlighted in red.

[47] Not covered by legally binding AA and Accession Protocol.

[48] It must be noted that this Policy Guidelines do not provide any new specific legal obligatory framework to Georgia. Policy Guidelines were prepared by the Secretariat with the European Commission (June 2018) to offer guidance to Contracting parties on the process of developing their integrated NECPs.

3.1. Table of Concordance of Georgia with EnC Recommendation 1 on NECP

RECOMMENDATION OF THE MINISTERIAL COUNCIL OF THE ENERGY COMMUNITY

2018/1/MC-EnC on preparing for the development of integrated national energy and climate plans by the Contracting Parties of the Energy Community

Country name	Georgia
Last update:	January 2020
National legislation:	№ 519-1 Law of Georgia on Environmental Protection (10/12/1996) № 2116 Law of Georgia on Ambient Air Protection (22/06/1999) № 1876 Law of Georgia on Normative Acts (22/10/2009) № 828 The Resolution of the Parliament of Georgia "On Harmonization of Georgian Legislation with the EU Law," 2/09/1997 № 2082 Ordinance of the Government of Georgia on the Approval of Georgia's Intended National Determined Contribution № 5646 Law of Georgia on Energy and Water Supply, 20.12.2019 № 5652 Law of Georgia on Encouraging the Production and Use of Energy from Renewable Sources, 20.12. 2019
Remarks:	Issues that require special attention are highlighted in red.
Abbreviations:	NECP = National Energy and Climate Plan IR = Annual Implementation Report by the Energy Community Secretariat (November 2020) LoEWS = Law of Georgia on Energy and Water Supply LoRES = Law of Georgia on Encouraging the Production and Use of Energy from Renewable Source

[Recommendation 2018/1/MC-EnC]		**National legislation**		**Level of concordance / comment**
Art.	**Provision / Transposition deadline**	**Art. / Law**	**Specific provision**	
[1]	The Contracting Parties should prepare the analytical, institutional and regulatory preconditions for the development and adoption of	Art. 7 (3) LoEWS	"The State Energy Policy may 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, and moderation of	- Transposed. It must be noted that the

	integrated national energy and climate plans ('national plans') for the period from 2021 to 2030. <u>Deadline:</u> No specific deadline (Art. 5 articulates that "the process should start in 2018 and should be finalised as soon as possible.")	Art. 5 (1) (v) LoEWS	energy demand. These dimensions shall be addressed in an integrated way which recognises the interactions between the different dimensions. The national plan shall define objectives for each dimension and, for each objective, a description of the policies and measures planned for meeting these objectives shall be provided. The national plan shall be adopted as an integral part of the State Energy Policy or as an annex thereto. The national plan shall be prepared and reported to the Energy Community Secretariat pursuant to the recommendation of the Ministerial Council of the Energy Community." "Organisation, regulation, monitoring and supervision of energy activities shall be implemented in compliance with the following general principles: v) increase of the efficiency and decrease of the negative environmental impact of energy activities, including reduction of greenhouse gas emissions, and their sustainable development in compliance with environmental, economic and social security policies of Georgia."	general legal reference to NECP has recently been incorporated into national legislation, but the actual preparation of the Plan is in its beginning. This is elaborated more in the next sub-chapter of the report. Furthermore, the General Policy Guidelines on the 2030 targets for the Contracting Parties of the Energy Community were prepared by the Energy Community Secretariat with the European Commission (June 2018) to provide guidance to Contracting Parties (incl. Georgia) on their integrated NECPs development process.[49] Therefore, it will not be assessed separately but will be considered in relation to NECP implementation progress.
[2]	The Climate Action Group should discuss and elaborate integrated energy and climate policies and the national plans pursuant to Article 1. To this purpose, the Group should be renamed the Energy and Climate Committee	--	---	- Not transposed. Although this provision primarily applies to the internal structure of the Recommendation at Energy Community level, it,

[49] Policy Guidelines states: "it was acknowledged that 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."

				nevertheless, underscores the need of the energy and climate committee to be established nationally. Georgia lacks such a structure due to the failure of establishing designated climate and energy committee. Previously LEDS Steering Committee[50] has been considered as attributing the functions of a climate committee. However, this format is by now exhausted due to the closure of LEDS Strategy preparation project.[51] According to 2nd BUR, The Ministry of Environment Protection and Agriculture has initiated the process of the Climate Change Committee formation, a working draft of the Committee's Regulations is on the stage of preparation and discussion. It is expected that such a committee will help the public, private, NGO sector and academia

[50] On 23 July 2013, the government of Georgia issued Resolution No 184 on the Creation of Steering Committee for the Development of Georgia's Low Emission Development Strategy (LED Strategy). The Steering Committee members include the following: Minister of Environment and Natural Resources Protection of Georgia; Deputy Minister of Environment and Natural Resources Protection of Georgia; Deputy Minister of Energy; Deputy Minister of Education and Science of Georgia; Deputy Minister of Agriculture; Deputy Minister of Regional Development and Infrastructure; Deputy Minister of Labor, Health and Social Protection of Georgia; Deputy Minister of Economy and Sustainable Development; Deputy Executive Director of the National Statistics Office of Georgia; USAID Caucasus Mission Director; and Head of Energy and Environment Office of USAID Caucasus Mission in Georgia.

[51] Enhancing capacity for low emission development strategies (EC-LEDS) clean energy program, Cooperative Agreement No. 114-A-13-00008.

				to integrate climate change issues in their policies and strategic plans. This will also support coordinated cooperation with donors and financial institutions, improvement of legislation, increase of public awareness on climate change issues, development and implementation of clean technologies etc.[52]
[3]	National plans should complement and where possible reinforce each other, using national strengths to address regional challenges in the most secure and cost-effective way. Contracting Parties should identify areas suitable for joint or coordinated planning and consult with each other early on in the preparation process. Particular attention should be paid to ensuring a coordinated approach concerning the development of new energy resources and infrastructures.	Art. 6 (4) LoEWS Art. 133 (1) LoEWS	"Competent national authorities of Georgia shall ensure close mutual cooperation at different national and regional levels for the purposes of harmonised regulatory and administrative practices in electricity and natural gas sectors." "In order to safeguard the security of supply on internal energy markets, competent national authorities of Georgia shall cooperate with respective competent authorities of other Energy Community Parties so as to promote regional and bilateral solidarity."	- No transposition required. Although there can be certain references to regional cooperation (to some extent relevant for the purposes of the EnC Recommendation 1) found in national legislation, no transposition of this specific article 3 is required. This particular clause extends the general regional cooperation requirement over the NECP context. What is meant to be understood under the "general regional cooperation requirement"? Regional Cooperation and creating single regulatory

[52] Georgia's Second Biennial Update Report, 2019.

				space are one of the key founding principles of the EnCT,[53] to which Georgia is already bound. The country by virtue of the Energy Community accession, in any case, undertakes the obligation to seek further cooperation mechanisms with other Contracting Parties. Thus, there is no need to transpose this particular clause explicitly in the domestic legislation.
[4]	Progress Reports on the implementation of national plans should be submitted by Contracting Parties to the Secretariat every two years and where appropriate on an annual basis, with a view to align the timescales for domestic, EU and international reporting. Those reports should facilitate the monitoring and the implementation of commitments taken under the United Nations Framework Convention on Climate Change (UNFCCC) and Paris Agreement.	Art. 4 (1) LoRES Art. 4 (3) LoRES	"The Government of Georgia shall by its Decree approve a national renewable energy action plan, which is elaborated and updated by the Ministry in every two years." "The Government of Georgia shall publish the draft of Georgia's national renewable energy action plan six months before it is due and submit the forecast document to the the Energy Community Secretariat."	- No transposition required. There is no high necessity of transposing the "Progress Reports" clause into the national regulatory framework. Georgia, as a party to the Energy Community Treaty is, nonetheless, committed to submit such a report to the EnC Secretariat by virtue of this Recommendation. Therefore, additional transposition should not be sought in this context. As an additional thought or recommendation, according to recently adopted national Renewable Energy law, GoG, nonetheless, adopts

[53] Article 2 of the EnCT.

				the Renewable Energy National Action Plan. The Plan is to be submitted to the EnC secretariat. The "progress report" clause as articulated by Art. 4 of this Recommendation can be an integral part of the National Renewable Energy Plan.

3.2. Concluding remarks regarding the transposition of the EnC Recommendation 1 on NECP

According to Article 1 of the EnC Recommendation 1, "the Contracting Parties should prepare the analytical, institutional and regulatory preconditions for the development and adoption of integrated national energy and climate plans for the period from 2021 to 2030." NECPs should be addressing the five dimensions of the Energy Union[54] and should ensure coherence with PA as well as other possible long-term energy and climate targets for 2030.

It must be highlighted in this context that while working on this assignment (esp. Deliverable 2), the landmark energy reform laws have been adopted in Georgia mandated by Third Energy Package[55] substituting existing energy market framework. Namely, Law of Georgia on Energy and Water Supply was enacted on 20 December 2019 and Law of Georgia on Encouraging the Production and Use of Energy from Renewable Sources was also passed on 20 December 2019. It is expected these laws to create the framework not only for modernizing energy market accommodating the European Union energy law key principles,[56] but establishing the legal grounds for long term energy strategy and planning. How does NECP fit under the framework law and does this latter explicitly refer to it?

[54] 1. Energy security, solidarity and trust; 2. A fully integrated energy market; 3. Energy efficiency; 4. Climate action – decarbonizing economy; 5. Research, innovation and competitiveness. For detailed analysis, see EU Commission Communication "A Framework Strategy for a Resilient Energy Union with a Forward-Looking Climate Change Policy."

[55] For more information, see <https://ec.europa.eu/energy/en/topics/markets-and-consumers/market-legislation/third-energy-package> accessed on 14 January 2020.

[56] See Samkharadze I., The EU Energy Law External Action and Its Impact Assessment on Municipal Georgian Legislation,' Tbilisi State University Law Review, No. 1, 2018, 241-257.

Article 7 (3) of the recently adopted landmark law of Georgia on Energy and Water Supply, specifically indicates that the "State Energy Policy may 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, and moderation of energy demand." This can very well be considered as a strong legal declaratory foundation paving the way towards actual preparation of the NECP also containing the certain references to the regional cooperation. On top of that, the recently passed Renewable Energy law should additionally be mentioned establishing the conditions on the approval of the National Renewable Energy Action Plan.

At the time of writing, however, the implementation of Georgia's National Energy and Climate Plan is in its very infancy. As enshrined in the IR 2019, the "an inter-ministerial consultation took place, however, preparatory work at national level on the analytical and technical aspects of the National Energy and Climate Plan (NECP) (reference and policy scenarios, templates) has not started."[57] The same document assesses the overall implementation status with 11 %.[58] GoG has not yet presented analytical and technical aspects of the strategy. In addition to this, the NECPs are often misinterpreted among Georgian stakeholders in connection with NDC, CAP and LEDS. However, it should be mentioned that the implementation process is coordinated by Ministry of Economy and Sustainable Development of Georgia and Ministry of Environmental Protection and Agriculture of Georgia. Two ministries are now coordinating the NECP preparation work jointly and it is also envisaged to draft the Terms of Reverence[59] for defining the scope and design of the NECP and to create the working group thereon for further implementation.

Accounting on the Energy Community discourse, a number of the key recommendations have been identified by Technical Working Group to be taken into account by the GoG for effective implementation of Recommendation 1:

a) Develop integrated methodological tools to prepare a reference scenario;
b) Develop integrated methodological tools to prepare a policy scenario;
c) Develop templates for national plans;
d) Organize regional consultations and peer reviews;
e) Submit national energy and climate plans by October 2020.[60]

[57] Energy Community Secretariat Annual Implementation Report, Georgia (climate).
[58] Ibid.
[59] Terms of Reference for implementing NECP is now yet available for public.
[60] The detailed review available <https://www.energy-community.org/implementation/Georgia/CLIM.html> accessed on 12 January 2020.

In this respect, the parallel processes should be also mentioned: a) Georgia is preparing the Climate Action Plan with the support of GIZ, funded by the German Federal Ministry of Environment, that targets the period of 2021-2030; b) NDC Update due in 2020 with more ambitious targets[61] complemented with the fairness principles; c) National Energy Efficiency Action Plan (NEEAP) development identifying policy and investment scenarios and other measures to comply with the Energy Community and EU standards. These processes are particularly accelerated in the aftermath of the ratification of the Paris Agreement and considering the outcomes of COP24. This especially fits under the decarbonisation dimension of National Energy and Climate Plan.

3.3. Table of Concordance of Georgia with EnC Recommendations 2 on Monitoring Mechanism Regulation

RECOMMENDATION OF THE MINISTERIAL COUNCIL OF THE ENERGY COMMUNITY

R/2016/02/MC-EnC on preparing for the implementation of Regulation (EU) No 525/2013 on a mechanism for monitoring and reporting greenhouse gas emissions

Country name	Georgia
Last update:	January 2020
National legislation:	№ 519-1 Law of Georgia on Environmental Protection (10/12/1996) № 2116 Law of Georgia on Ambient Air Protection (22/06/1999) № 1876 Law of Georgia on Normative Acts (22/10/2009) № 828 The Resolution of the Parliament of Georgia "On Harmonization of Georgian Legislation with the EU Law," 2/09/1997 № 2291 Law of Georgia on Official Statistics (11/12/2009) The Resolution of the Parliament of Georgia on "Main Directions of State Policy in the Power Sector of Georgia" (№3758 - II 24/06/2015) № 934 Law of Georgia on International Treaties of Georgia (16/10/1997) № 96 Decree of the Government of Georgia on the ratification of Paris Agreement (21/02/2017)

[61] Georgia is currently committed to reduce GHG emissions unconditionally by 15% (with additional 10% of conditionality) compared to the business as usual (BAU) scenario by 2030.

	№ 1999 Resolution of the Parliament of Georgia on the ratification of Kyoto Protocol (28/05/1999)
Remarks:	Issues that require special attention are highlighted in red.
Abbreviations:	MRV = monitoring verification reporting LoOS = Law of Georgia on Official Statistics LoEP = Law of Georgia on Environmental Protection

[Recommendation R/2016/02/MC-EnC]		**National legislation**		**Level of concordance / comment**
Art.	**Provision / Transposition deadline**	**Art. / Law**	**Specific provision**	
[1][62]	The Contracting Parties should prepare the legal and institutional preconditions for the implementation of the core elements of Regulation (EU) No 525/2013[63] in their jurisdictions.[64] Deadline: No specific deadline.	Art. 51 LoEP	"1. In order to protect the climate from global changes, an operator shall comply with the standards of the emission of greenhouse gases into the atmosphere and take measures for their reduction. 2. The emission of greenhouse gases shall be regulated on the basis of the system of the integrated control of environmental pollution. 3. A legal framework for the protection of the climate from global changes within the jurisdiction of Georgia shall be established by the legislation of Georgia."	- Partially transposed. Article 51 of LoEP establishes basic obligations of the entities in the field of climate change incl. reducing greenhouses gases, but there is no reporting obligation as such. Furthermore, this article creates only general legal foundation for GHG monitoring and reporting and it does not specify the mechanisms. It thus can be
		Art. 1 (1) LoOS	"The purpose of this Law is to keep independent, impartial and reliable statistics in the country in compliance with the UN Fundamental Principles of Official Statistics and the European Statistics Code of	

[62] Given the nature of the Recommendation, only article 1 (1) seems to be the most relevant provision within the context of the implementing the Recommendation to be compared against the domestic legislation.

[63] 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 and for reporting other information at national and Union level relevant to climate change and repealing Decision No 280/2004/EC.

[64] The indication on the "core elements" of the 525/2013 Regulation once again emphasizes on the "soft law" nature of the Recommendation leaving it up to the contracting parties what to be considered as "core elements" of the regulation in question. Given the importance and the absolute nature, the present piece clusters the following matters to be checked against the national legislation in this concordance table: Low-carbon development strategies (Art. 4); National Inventory systems (Art. 5-14); Biennial reports and national communications (Art. 18).

			Practice, based on internationally recognised fundamental principles of statistics."	argued that there is no sophisticated MRV[65] legal set-up existing in Georgia.

3.4. Concluding remarks regarding the EnC Recommendations 2 on Monitoring Mechanism Regulation

Based on the concordance table above, there is a lack of a specific national normative framework that acts as a basis for a binding MRV system in Georgia. All the international climate responsibilities and commitments of Georgia are based on the international agreements and multilateral sectoral treaties (UNFCCC, Kyoto Protocol, Paris Agreement) signed and ratified by the parliament of Georgia. The ratification of Paris Agreement is an important legal avenue in terms of future reporting requirements, since PA largely relies on a robust transparency and accounting system that provides clarity on action and support by parties.[66] Nevertheless, establishment of MRV system is not directly defined by any international agreement, and the climate reporting obligations are still driven under UNFCCC, i.e. Biennial Update Report (BUR) and National Communication (NC). What complicates the process is that the main source of obtaining necessary information is LEPL Environmental Information and Education Centre (EIEC) and National Statistics Office of Georgia,[67] but there is no legal obligation for data providers to transfer any information to EIEC and GeoStat. The information is collected at a random manner with no sustainable reporting system and documents are prepared on an *ad hoc* basis.[68] The collecting entities receive information from a wide variety of organizations, such as local governmental authorities (municipalities), Subordinated Departments, Private sector, CSOs and International donors. These entities are often reluctant to provide sensitive data that can cause misconception of the final results.[69]

However, Georgia has an experience with the different elements of MRV for greenhouse gas (GHG) emissions through project-based activities, and preparation of the national GHG inventory. One of such examples that is currently operational in Georgia is the one established under the Covenant of Mayors,[70] an EU initiative under which 23 municipalities in Georgia

[65] The term itself was first introduced in the Bali Road Map, which was adopted at the 13th CoP and the 3rd Meeting of the Parties in December 2007 in Bali.
[66] Article 6 (2) of the Paris Agreement.
[67] Based on the Memorandum of Understanding with the Ministry of Environmental Protection and Agriculture of Georgia signed in 2014.
[68] For more detailed analysis, see Background Paper on a Legal Setup for MRV in Georgia prepared under GIZ "Information Matters" Project (PN: 2012.9020.4-003).
[69] See Annex IV of the present report for the institutional framework of the National GHG Inventory in Georgia.
[70] Covenant of Mayors for Climate & Energy, <https://www.covenantofmayors.eu/> accessed on 16 January 2020.

have committed to voluntary GHG reductions. Under this initiative, participating municipalities estimated their GHG emissions baseline, developed sustainable energy action plans, as well as MRV methodologies to capture the effects of the proposed mitigation actions.[71] Given these circumstances, it must be highly recommended that Georgia develops and adopts a national MRV legal framework ideally assigning the individual functions to the individual actors[72] avoiding uneven and only project-based collection and monitoring the relevant climate data. In doing so, the compliance with the Regulation 525/2013 facilitating Georgia to better monitor and report on its GHG emissions and the progress towards energy and climate targets defined by NDC is of crucial importance.

The following milestones can be identified to be respectively transposed into national legislation:

Low-carbon development strategies (Art. 4)

As a result of inter-ministerial coordination, the Low Emission Development Strategy (LEDS) was drafted and finalized under the Enhancing Capacity for Low Emission Development Strategies (EC-LEDS) programme supported by USAID.[73] The preparation of the LEDS has started as early as in 2012[74] with the objective (a) to ensure integrated complex approach for long-term sustainable development; (b) to take into account the national development goals and circumstances; (c) to facilitate transformational development; (d) to help the country to accomplish international obligations undertaken regarding climate change and (e) to help the country to obtain funding from state and private sources. The Georgia LED Strategy consists of three main parts: Part I provides the international context and elaborates the achievements needed to realize the Georgia 2030 - LEDS vision, Part II defines sectoral strategies and goals within the context of Georgia's national LED strategy, and Part III provides a roadmap for implementing the strategy. Although LED strategy has been finalized in September 2017, it is not officially approved by the Government.

[71] See Second Biennial Update Report, November 2019.
[72] The experience of afore-named Covenant of Mayors can be taken into consideration while designating the functional MRV system of Georgia.
[73] Cooperative agreement No. 114-A-13-00008.
[74] On 17 December 2012, the US Agency for International Development (USAID) and the Ministry of Environment Protection of Georgia signed a memorandum of understanding (MOU) that supports LEDS and provides the framework for bilateral cooperation in Georgia.

National Inventory systems (Art. 5-14)

The first GHG inventory was conducted based on materials from 1980-1996 years within the framework of the First National Communication (1997-1999). The Second National Communication (2006-2009) covered 1997-2006, while the Third National Inventory covered the inventory conducted in 2007-2011.[75] The First Biennial Update Report (FBUR, during 2015-2017) of Georgia to UNFCCC comprised the period of 2012-2013.[76] Georgia has recently conducted the fifth National Inventory of anthropogenic emissions by sources and removal by sinks of greenhouse gases (GHG) along with the Second Biennial Update Report to UNFCCC over the period of 2014-2015. The GHG Inventory is compiled according to the 2006 IPCC Guidelines (methodology)[77] for National Greenhouse Gas Inventories including emissions and removals of six direct greenhouse gases: CO2, CH4, N2O, HFCs, PFCs and SF6, and four indirect gases: CO, NOx, NMVOC and SO2. According to the Common Reporting Format (CRF) of the IPCC Methodology, the inventory covers five sectors: Energy, Industrial Processes and Product Use (IPPU), Agriculture, Land use, Land- Use Change and Forestry (LULUCF) and Waste.

As a matter of fact, the GHG inventories in Georgia are performed as part of the Biennial Update Reports and National Communications to the UNFCCC. The inventory implementing entity, which manages the inventory process, is the Environment Information and Education Centre (EIEC), under the supervision of the Ministry of Environmental Protection and Agriculture. However, due to a lack of human and financial resources, the preparation of inventories leverages on external assistance and outsourced technical expertise. The legislative framework and software tool for the GHG data management is under development; Therefore, although no binding, the compliance with the corresponding provisions of Regulation (EU) No 525/2013 should be ensured.

Biennial reports and national communications (Art. 18).

Echoing on what has been discussed above, Georgia has recently submitted its latest – the second Biennial Update Report complemented with the Fourth National Greenhouse Gas Inventory presenting transparently: (1) the trends in domestic emissions for 25 year period, (2) the mitigation measures have been taken to limit the GHG emissions, and support received

[75] See Third National Communication.
[76] Georgia's GHG Inventory 1990 – 2015 available at <https://www.ge.undp.org/content/dam/georgia/docs/publications/ENV/UNDP_GE_EE_GHG%20national%20inventory%20report%201990-2015%20ENG.pdf> accessed on 18 January 2020.
[77] The IPCC 2006 is not a binding document, but it contains necessary information.

and needs demonstrating the closing the gaps in the implementation of the Paris Agreement.[78] The Fourth National Communication is under preparation supported by UNDP Programme "Development of Georgia's Second Biennial Update Report and Fourth National Communication to the UNFCCC." The overall goal of the project is to support GoG to mainstream and integrate climate change considerations into development strategies and sector-based policy frameworks. This will be ensured via supporting the country by reporting mechanisms under the UNFCCC and ensuring the regular mechanism of MRV while the immediate objective is to support country with preparing the Second Biennial Update Report and Fifth National Communication under the UNFCCC in accordance with its commitments as a non-Annex 1 country.[79]

[78] See the 2nd BUR available at: <https://www4.unfccc.int/sites/SubmissionsStaging/NationalReports/Documents/03268145_Georgia-BUR2-1-2019.06.13_BUR2_2019_Eng.pdf> accessed on 12 January 2020.

[79] See the project document available at < https://www.ge.undp.org/content/dam/georgia/docs/prodocs/EE/UNDP_GE_ENV_IIBUR_IVNC_prodoc_2017.pdf> accessed on 12 January 2020.

3.5. Description and analysis of the concordance tables for Georgia's implementation of commitments under EnC

The respective concordance tables above verify whether national regulatory framework in Georgia is line with the commitments undertaken through the accession to the Energy Community Treaty. The assessment shows that overall implementation of the Recommendations in question should be evaluated *as partial and slow* in comparison with the climate *acquis* negotiated under the AA. This delay in implementing the EnC legal pieces can either be associated with Georgia's belated accession to the EnCT (roughly two years after the signature of the AA) or the soft-law, advisory nature of EnC Recommendations.

With regard to EnC Recommendation 1 on NECP, the assessment shows that the development of preparing National Energy and Climate Plan is yet to be accelerated. Albeit the substantial legal foundation for such a strategy has recently been incorporated via adopting the Law of Georgia on Energy and Water Supply (Article 7 (3)), this does not really advance the process of meeting the requirement of Art. 1 of the Recommendation (= completing and submitting NECP). Furthermore, although some reference in the same law have been identified, it can be argued that no formal transposition is required in the cases of Article 3 (regional cooperation) and Article 4 (progress report) of the Recommendation. With regard to regional cooperation, the country can account on general EnC framework, while the progress reports can be included in the National Renewable Energy Action Plans as required by RES law. Georgian authorities as well as the key stakeholders in the field are now in a need to define the scope and exact vision of the plan and streamline it to the existing parallel processes (e.g. Climate Action Plan, Energy Efficiency Action Plan and NDC Update thereof) to the extent possible. It should be mentioned that Policy Guidelines have not been assessed separately in the concordance tables, as they do not provide any additional specific legal obligatory framework for Georgia but offers supplementary guidance to Contracting Parties on the process of developing their integrated NECPs.

EnC Recommendation 2 on Monitoring Mechanism Regulation endeavours Georgia to prepare the legal and institutional preconditions for the implementation of the core elements of Regulation No 525/2013 of the European Union. The analysis shows that the Regulation is not transposed into national legislation, but two general provisions have been found in primary national legislation in line with the requirements of the Regulation. Article 51 of LoEP establishes the basic obligations of the entities in the field of climate change, such as reducing greenhouses gases to the atmosphere, but there is no reporting obligation *per se*. This article creates only general legal foundation for GHG monitoring and reporting and it does not specify the mechanisms for providing the data to the collecting entities. It rather makes a reference to a legal framework for the protection of the climate from global changes within the jurisdiction of Georgia. Article 1 of the LoOS can also be mentioned in this context with regards to country's compliance with the UN Fundamental Principles of Official Statistics and the European Statistics Code of Practice. Nevertheless, it should be claimed that the "core

elements”[80] of the EU 525/2013 Regulation remain ill-regulated in the national legal system. There is no sophisticated national MRV legal set-up in place and the major legal gaps are associated with the 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.

4. Wrap-up and recommendations

As early as in 1997, the Parliament of Georgia has adopted the resolution № 828 “on Harmonization of Georgian Legislation with the EU Law.”[81] This has marked the early days of Georgia’s endeavour to harmonize its domestic legislation under the footprint of the EU norms and standards. Since then many developments took place up until the signature of the AA. Within the framework of the Association Agreement, Georgia has amended quite a substantial number of legislative acts and/or adopted the new legal acts. In particular, within the period of three years (2014-2017) 9 new laws have been adopted, up to 70 laws have been amended and up to 100 secondary laws have also been issued.[82]

Legal approximation to the European standards set out in the EU regulations cannot be the subject of identical transportation, but provisions should be harmonized and adapted to the national circumstances. Transposition of a specific provision is a separate legislative activity and should not be identified as a mere translation of a EU-adopted norm. This applies to the EU climate *acquis* as per described above, which must also be exported creatively to enhance their productivity and general capacity within the national legal system. Descended from the Constitution of Georgia[83] followed by the Law of Georgia on Normative acts[84] the solid legal basis is created for effective harmonisation of Georgian laws in several fields of action incl. climate change

The detailed assessment of the transposition of the specific climate *acquis* provisions above illustrates that the harmonization tendency in overall terms can be deemed positively. This especially applies to the obligatory provisions of the AA (F-gas and ODS), which seem to be on track. Nevertheless, there are a number of provisions that are left blank or insufficiently regulated by the national regulations. A key task of implementing EU climate *acquis* provisions and enforcing the national provisions lies

[80] E.g. Low-carbon development strategies (Art. 4); National Inventory systems (Art. 5-14); Biennial reports and national communications (Art. 18), as suggested above.
[81] Adopted on 2 September 1997.
[82] Reports of the Action Plans for 2015, 2016 and 2017 for the Implementation of the Association Agreement and the Association Agenda <http://www.mfa.gov.ge/ევროპული-და-ევრო-ატლანტიკური-ინტეგრაცია/asocirebis-dgis-cesrigis-angarishebi.aspx?lang=ka-GE> accessed on 11 January 2020.
[83] Article 78 addresses Georgia’s integration to European and Euro-Atlantic structures.
[84] Article 17 (1) c.a) of the Law on Normative acts of Georgia stresses on the obligation of the legal drafters to provide the information on compliance of the draft law with “EU law.”

under the responsibility of the competent authority and line ministries. There are cases, when the full compatibility of the domestic legislation with the provisions of EU regulation is not possible or may require adjustment to national circumstances.

Based on the performed analysis, the following key recommendations can be put forward to push the implementation of the climate *acquis* in domestic legislation derived from the AA and EnCT:

- Account on the specific provisions of the F-gas and ODS Regulations as enshrined in the Annex when incorporating the respective pieces of legislation into the national legislation;
- Accelerate the process of adopting the draft laws identified in the F-gas and ODS Regulations concordance tables, as amending draft laws pertain the key actions of Georgia's climate commitments (e.g. designating the competent authority for establishing the rules on monitoring, reporting and recovering the F-gases);
- Prepare and adopt the technical regulation on F-gas in timely manner[85] detailing the legal pathway towards full implementation of the EU F-gas regulation as envisioned by Article 12 (5) of the draft law (No 1663) amending the LoAAP;
- Finalize the preparatory work towards the latest ODS draft law package[86] amending the LoAAP and subsequent secondary legislation thereof,[87] addressing the legal gaps on use of controlled substances as feedstock, process agents, essential laboratory and analytical use as well as leakages and emissions of controlled substances (Art. 23, ODS Regulation);
- Create working group at a national level and streamline multiple climate policy planning process identify the specific linkages with CAP, NEEAP and NDC Update in order to accelerate the process of NECP preparation;
- Continue bilateral dialogue with the EU Commission and Council (Association Council format[88]) and Energy Community Secretariat for moving ahead with climate-related commitments (incl. dynamic harmonisation principle) and recommendations;
- Apply more regional cooperation with Energy Community CPs when preparing the NECP for better development of integrated methodological tools for policy and reference scenarios;
- Consider integrating "progress report" on the implementation of national plans in National Renewable Energy Action Plan" set out by the recently passed national RES law;
- Systematize and show the most essential institutions in the country based on EU Regulation 525/2013 that play an important role in the MRV system in order to identify the current state of affairs in Georgia;

[85] The Article 13 of the draft law (No. 1663) requires the government of Georgia to adopt such a technical regulation by January 2020, which is already delayed.
[86] Still under the consideration, not yet registered in the parliament of Georgia.
[87] № 266 Ordinance as well as № 302/304 Decrees of the GoG.
[88] 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."

- Develop MRV legal system based on EU Regulation 525/2013 in order to meet the country's reporting obligations under UNFCCC, i.e. Biennial Update Report (BUR) and National Communication (NC), as well as to meet future reporting requirements under the Paris Agreement;
- Prepare and follow the detailed Roadmap for the full implementation of the climate *acquis* deriving from the AA and accession to EnCT. In ideal scenario, the separate roadmaps for a single Regulation and EnC Recommendation must be encouraged to plan consistent implementation;
- Ensure commitments prioritization according to the deadline of the certain provisions as per negotiated in the AA. Apart from specific deadlines, the priorities can be determined according to environmental urgency, large mitigation/adaptation potential, cost-effectiveness etc.
- Establish designated climate committee that is missing in the country. An interim solution can be to establish the workforce at a responsible ministry level to apply regular monitoring and reporting of the outcome of climate *acquis* implementation.
- Ensure donor coordination when delivering on the climate pledges. As a highly donor-driven sector, a comprehensive overview on donors' climate projects and deliverables is crucial to get a coherent picture towards approximation and building up the future support on existing ones. A special attention must also be paid to the prevention of overlaps between the donor supports.
- Benefit from international financing,[89] such as, for example, Global Environmental Facility or Green Climate Fund when implementing the respective AA and EnC assumed obligations.

5. The next steps

Upon completing two Deliverables of the assignment, whereas the Part I looked at the relevant EU climate *acquis* applicable to Georgia under the Association Agreement and Energy Community Treaty and Part II verified whether assumed legal obligations are addressed adequately in the national legislation, the next steps include the development of a detailed Roadmap for the EU4Climate support to Georgia and preparation the final report.

The envisaged Roadmap will provide a set of recommendations 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 4) EnC Recommendation 2 on monitoring mechanism regulation. As suggested by the Deliverable 1, the Policy Guidelines will be left out of the detailed Roadmap, as it does not create any additional legal environment, but only provides a guidance regarding NECP preparation.

[89] It should be noted that according to Georgia's INDC, country's 15% reduction target will be increased up to 25% in a conditional manner, subject to a global agreement addressing the importance of technical cooperation, access to low-cost financial resources and technology transfer.

Besides the detailed Roadmap, the final report of the assignment will be delivered towards the end of March 2020 comprising of the key conclusions of two Deliverables, the results of the field interviews with state authorities and a complete Roadmap for EU4Climate support outlining priority actions. Presentations of the findings will be delivered by an expert at the national as well as regional workshops organized either by EU4Climate project or Energy Community Energy and Climate Committee. Should the necessity arise, the respective translations of the report and key findings will be conducted accordingly for relevant Georgian stakeholders.

6. Annexes

6.1. Annex I: Annex XXVII to Association Agreement: CLIMATE ACTION

Georgia undertakes to gradually approximate its legislation to the following EU legislation and international instruments within the stipulated timeframes.

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

The following provisions of that Regulation shall apply:

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

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

— establishment/adaptation of national training and certification requirements for relevant personnel and companies (Article 5);

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

— establishment of (internal) reporting systems for acquiring emission data from the relevant sectors (Article 6);

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

— establishment of enforcement system (Article 13).

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

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

The following provisions of that Regulation shall apply:

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

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

— establishment of a ban on the production of controlled substances, except for specific uses (Article 4);

Timetable: those provisions of that Regulation shall be implemented within five years of the entry into force of this Agreement. EN 30.8.2014 Official Journal of the European Union L 261/593

— establishment of a ban on the placing on the market and use of controlled substances and for reclaimed HCFCs which might be used as refrigerants, according to the obligations of Georgia taken under the Montreal Protocol (Articles 5 and 11). Georgia will freeze the consumption of HCFCs at baseline level by 2013, decrease the consumption by 10 % in 2015, by 35 % in 2020, by 67,5 % in 2025 and Phase out by 2030 (except 2,5 % for servicing use up to 2040);

Timetable: those provisions of that Regulation shall be implemented within 15 years of the entry into force of this Agreement.

— definition of the conditions for the production, placing on the market and use of controlled substances for exempted uses as feedstock, process agents, for essential laboratory and analytical uses, critical uses of halons (Chapter III). The use of Methyl Bromide will be only allowed for critical uses and Quarantine and Pre-shipment applications in Georgia;

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

— establishment of a licensing system for the import and export of controlled substances for exempted uses (Chapter IV) and reporting obligations for undertakings (Article 27);

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

— establishment of obligations to recover, recycle, reclaim and destruct used controlled substances (Article 22);

Timetable: those provisions of that Regulation for Ozone Depleting Substances shall be implemented within five years of the entry into force of this Agreement.

— establishment of procedures for monitoring and inspecting leakages of controlled substances (Article 23).

Timetable: those provisions of that Regulation for Ozone Depleting Substances shall be implemented within seven years of the entry into force of this Agreement. EN L 261/594 Official Journal of the European Union 30.8.2014.

6.2. Annex II: Fluorinated greenhouse gasses referred to F-gas Regulation Article 2 (1)

Fluorinated greenhouse gas	Chemical Formula	Global warming potential (GWP)
Sulphur hexafluoride	SF_6	22 200
Hydrofluorocarbons (HFCs):		
HFC-23	CHF_3	12 000
HFC-32	CH_2F_2	550
HFC-41	CH_3F	97
HFC-43-10mee	$C_5H_2F_{10}$	1 500
HFC-125	C_2HF_5	3 400
HFC-134	$C_2H_2F_4$	1 100
HFC-134a	CH_2FCF_3	1 300
HFC-152a	$C_2H_4F_2$	120
HFC-143	$C_2H_3F_3$	330
HFC-143a	$C_2H_3F_3$	4 300
HFC-227ea	C_3HF_7	3 500
HFC-236cb	$CH_2FCF_2CF_3$	1 300
HFC-236ea	CHF_2CHFCF_3	1 200
HFC-236fa	$C_3H_2F_6$	9 400
HFC-245ca	$C_3H_3F_5$	640
HFC-245fa	$CHF_2CH_2CF_3$	950
HFC-365mfc	$CF_3CH_2CF_2CH_3$	890
Perfluorocarbons (PFCs):		
Perfluoromethane	CF_4	5 700
Perfluoroethane	C_2F_6	11 900
Perfluoropropane	C_3F_8	8 600
Perfluorobutane	C_4F_{10}	8 600
Perfluoropentane	C_5F_{12}	8 900
Perfluorohexane	C_6F_{14}	9 000
Perfluorocyclobutane	$c\text{-}C_4F_8$	10 000

6.3. Annex III: Controlled substances referred to ODS Regulation

Group	Substance			Ozone-depleting potential (1)
Group I	$CFCl_3$	CFC-11	Trichlorofluoromethane	1,0
	CF_2Cl_2	CFC-12	Dichlorodifluoromethane	1,0
	$C_2F_3Cl_3$	CFC-113	Trichlorotrifluoroethane	0,8
	$C_2F_4Cl_2$	CFC-114	Dichlorotetrafluoroethane	1,0
	C_2F_5Cl	CFC-115	Chloropentafluoroethane	0,6
Group II	CF_3Cl	CFC-13	Chlorotrifluoromethane	1,0
	C_2FCl_5	CFC-111	Pentachlorofluoroethane	1,0
	$C_2F_2Cl_4$	CFC-112	Tetrachlorodifluoroethane	1,0
	C_3FCl_7	CFC-211	Heptachlorofluoropropane	1,0
	$C_3F_2Cl_6$	CFC-212	Hexachlorodifluoropropane	1,0
	$C_3F_3Cl_5$	CFC-213	Pentachlorotrifluoropropane	1,0
	$C_3F_4Cl_4$	CFC-214	Tetrachlorotetrafluoropropane	1,0
	$C_3F_5Cl_3$	CFC-215	Trichloropentafluoropropane	1,0
	$C_3F_6Cl_2$	CFC-216	Dichlorohexafluoropropane	1,0
	C_3F_7Cl	CFC-217	Chloroheptafluoropropane	1,0
Group III	CF_2BrCl	halon-1211	Bromochlorodifluoromethane	3,0
	CF_3Br	halon-1301	Bromotrifluoromethane	10,0
	$C_2F_4Br_2$	halon-2402	Dibromotetrafluoroethane	6,0
Group IV	CCl_4	CTC	Tetrachloromethane (carbon tetrachloride)	1,1

Group V	$C_2H_3Cl_3$ (2)	1,1,1-TCA	1,1,1-Trichloroethane (methylchloroform)	0,1
Group VI	CH_3Br	methyl bromide	Bromomethane	0,6

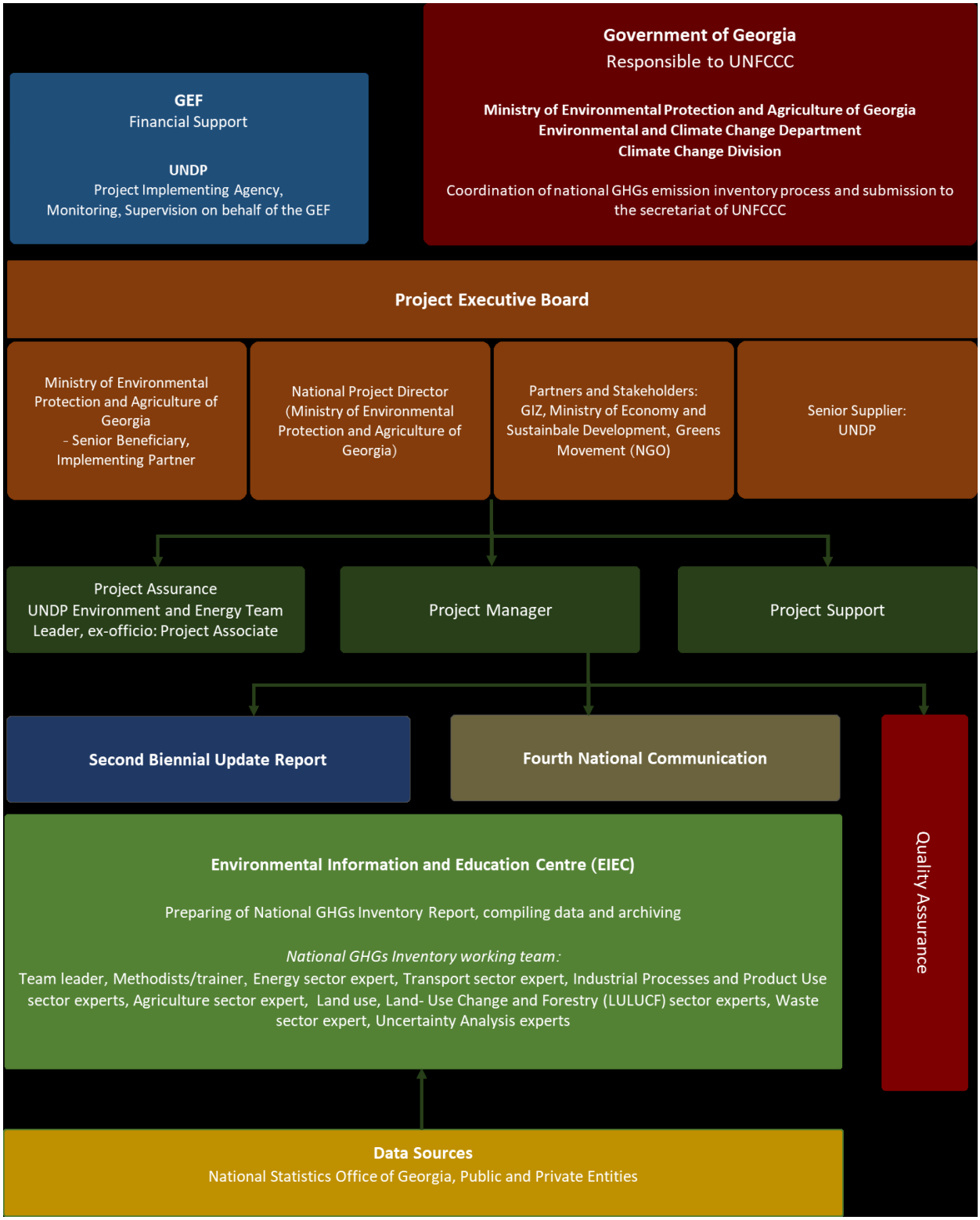
Group	Substance			Ozone-depleting potential (1)
Group VII	$CHFBr_2$	HBFC-21 B2	Dibromofluoromethane	1,00
	CHF_2Br	HBFC-22 B1	Bromodifluoromethane	0,74
	CH_2FBr	HBFC-31 B1	Bromofluoromethane	0,73
	C_2HFBr_4	HBFC-121 B4	Tetrabromofluoroethane	0,8
	$C_2HF_2Br_3$	HBFC-122 B3	Tribromodifluoroethane	1,8
	$C_2HF_3Br_2$	HBFC-123 B2	Dibromotrifluoroethane	1,6
	C_2HF_4Br	HBFC-124 B1	Bromotetrafluoroethane	1,2
	$C_2H_2FBr_3$	HBFC-131 B3	Tribromofluoroethane	1,1
	$C_2H_2F_2Br_2$	HBFC-132 B2	Dibromodifluoroethane	1,5
	$C_2H_2F_3Br$	HBFC-133 B1	Bromotrifluoroethane	1,6
	$C_2H_3FBr_2$	HBFC-141 B2	Dibromofluoroethane	1,7
	$C_2H_3F_2Br$	HBFC-142 B1	Bromodifluoroethane	1,1
	C_2H_4FBr	HBFC-151 B1	Bromofluoroethane	0,1
	C_3HFBr_6	HBFC-221 B6	Hexabromofluoropropane	1,5
	$C_3HF_2Br_5$	HBFC-222 B5	Pentabromodifluoropropane	1,9
	$C_3HF_3Br_4$	HBFC-223 B4	Tetrabromotrifluoropropane	1,8
	$C_3HF_4Br_3$	HBFC-224 B3	Tribromotetrafluoropropane	2,2
	$C_3HF_5Br_2$	HBFC-225 B2	Dibromopentafluoropropane	2,0
	C_3HF_6Br	HBFC-226 B1	Bromohexafluoropropane	3,3
	$C_3H_2FBr_5$	HBFC-231 B5	Pentabromofluoropropane	1,9
	$C_3H_2F_2Br_4$	HBFC-232 B4	Tetrabromodifluoropropane	2,1
	$C_3H_2F_3Br_3$	HBFC-233 B3	Tribromotrifluoropropane	5,6
	$C_3H_2F_4Br_2$	HBFC-234 B2	Dibromotetrafluoropropane	7,5
	$C_3H_2F_5Br$	HBFC-235 B1	Bromopentafluoropropane	1,4
	$C_3H_3FBr_4$	HBFC-241 B4	Tetrabromofluoropropane	1,9
	$C_3H_3F_2Br_3$	HBFC-242 B3	Tribromodifluoropropane	3,1
	$C_3H_3F_3Br_2$	HBFC-243 B2	Dibromotrifluoropropane	2,5

	$C_3H_3F_4Br$	HBFC-244 B1	Bromotetrafluoropropane	4,4
	$C_3H_4FBr_3$	HBFC-251 B1	Tribromofluoropropane	0,3
	$C_3H_4F_2Br_2$	HBFC-252 B2	Dibromodifluoropropane	1,0
	$C_3H_4F_3Br$	HBFC-253 B1	Bromotrifluoropropane	0,8
	$C_3H_5FBr_2$	HBFC-261 B2	Dibromofluoropropane	0,4
	$C_3H_5F_2Br$	HBFC-262 B1	Bromodifluoropropane	0,8
	C_3H_6FBr	HBFC-271 B1	Bromofluoropropane	0,7

Group	Substance			Ozone-depleting potential (1)
Group VIII	$CHFCl_2$	HCFC-21 (3)	Dichlorofluoromethane	0,040
	CHF_2Cl	HCFC-22 (3)	Chlorodifluoromethane	0,055
	CH_2FCl	HCFC-31	Chlorofluoromethane	0,020
	C_2HFCl_4	HCFC-121	Tetrachlorofluoroethane	0,040
	$C_2HF_2Cl_3$	HCFC-122	Trichlorodifluoroethane	0,080
	$C_2HF_3Cl_2$	HCFC-123 (3)	Dichlorotrifluoroethane	0,020
	C_2HF_4Cl	HCFC-124 (3)	Chlorotetrafluoroethane	0,022
	$C_2H_2FCl_3$	HCFC-131	Trichlorofluoroethane	0,050
	$C_2H_2F_2Cl_2$	HCFC-132	Dichlorodifluoroethane	0,050
	$C_2H_2F_3Cl$	HCFC-133	Chlorotrifluoroethane	0,060
	$C_2H_3FCl_2$	HCFC-141	Dichlorofluoroethane	0,070
	CH_3CFCl_2	HCFC-141b (3)	1,1-Dichloro-1-fluoroethane	0,110
	$C_2H_3F_2Cl$	HCFC-142	Chlorodifluoroethane	0,070
	CH_3CF_2Cl	HCFC-142b (3)	1-Chloro-1,1-difluoroethane	0,065
	C_2H_4FCl	HCFC-151	Chlorofluoroethane	0,005
	C_3HFCl_6	HCFC-221	Hexachlorofluoropropane	0,070
	$C_3HF_2Cl_5$	HCFC-222	Pentachlorodifluoropropane	0,090
	$C_3HF_3Cl_4$	HCFC-223	Tetrachlorotrifluoropropane	0,080
	$C_3HF_4Cl_3$	HCFC-224	Trichlorotetrafluoropropane	0,090
	$C_3HF_5Cl_2$	HCFC-225	Dichloropentafluoropropane	0,070
	$CF_3CF_2CHCl_2$	HCFC-225ca (3)	3,3-Dichloro-1,1,1,2,2-pentafluoropropane	0,025
	CF_2ClCF_2CHClF	HCFC-225cb (3)	1,3-Dichloro-1,1,2,2,3-pentafluoropropane	0,033
	C_3HF_6Cl	HCFC-226	Chlorohexafluoropropane	0,100
	$C_3H_2FCl_5$	HCFC-231	Pentachlorofluoropropane	0,090
	$C_3H_2F_2Cl_4$	HCFC-232	Tetrachlorodifluoropropane	0,100
	$C_3H_2F_3Cl_3$	HCFC-233	Trichlorotrifluoropropane	0,230
	$C_3H_2F_4Cl_2$	HCFC-234	Dichlorotetrafluoropropane	0,280
	$C_3H_2F_5Cl$	HCFC-235	Chloropentafluoropropane	0,520

	$C_3H_3FCl_4$	HCFC-241	Tetrachlorofluoropropane	0,090
	$C_3H_3F_2Cl_3$	HCFC-242	Trichlorodifluoropropane	0,130
	$C_3H_3F_3Cl_2$	HCFC-243	Dichlorotrifluoropropane	0,120
	$C_3H_3F_4Cl$	HCFC-244	Chlorotetrafluoropropane	0,140
	$C_3H_4FCl_3$	HCFC-251	Trichlorofluoropropane	0,010
	$C_3H_4F_2Cl_2$	HCFC-252	Dichlorodifluoropropane	0,040
	$C_3H_4F_3Cl$	HCFC-253	Chlorotrifluoropropane	0,030
	$C_3H_5FCl_2$	HCFC-261	Dichlorofluoropropane	0,020
	$C_3H_5F_2Cl$	HCFC-262	Chlorodifluoropropane	0,020
	C_3H_6FCl	HCFC-271	Chlorofluoropropane	0,030
Group IX	CH_2BrCl	BCM	Bromochloromethane	0,12

6.4. Annex IV: Institutional Framework of the National GHG Inventory in Georgia



Source: GHGs National Inventory Report of Georgia 1990-2015, Tbilisi, 2019.