

Provision on Environmental Impact Assessment

Chapter I General

Section I. General Provisions

Article 1. Normative Acts, based on which and/or implementation of which present Provision on EIA has been prepared.

The Provision on EIA has been prepared according to the Article 8, subarticle 4 of the Law of Georgia on „State Ecological Examination" and Article 14, subarticles 1 and 4 of Law of Georgia on „Environmental Permit", in order to meet the provisions stated in those Laws.

Article 2. The subject of regulation of the Provision

Present Provision regulates legal relationship between the subject of the economical or other type of activity, the state and the society. It regulates the procedure for EIA, which aims to protect ecosystems, separate elements of environment, human environment, landscape and cultural heritage in the process of decision-making.

Article 3. Legislative system in the field of EIA

This Provision is based on „Environmental Protection,, Law, „State Ecological Examination" Law and „Environmental Permit" Law of Georgia, as well as legislative normative acts, International Agreements and Treaties.

Article 4. Aims and Objectives of the Provision

1. The aims of the Provision are:

- a) to establish the rule for conducting an EIA procedure, based on the study of planned activity;
- b) to provide legally protection of the environment with its separate elements, human, landscape and cultural heritage;
- c) assist in protecting society's ecological, economical and social interests, while planning industrial or other types of activities;

2. The objectives of the Provision are:

- a) To identify principles and methods for studying direct and indirect impacts of planned activity on human health and safety, on plants and animals, soil, air, water, climate, landscape, ecosystems and historical heritage or on all above mentioned factors together;
- b) To identify the rational and sustainable use of natural resources and optimal project options from environmental point of view;
- c) To provide right of citizens, defined by Constitution of Georgia, to receive full, objective and timely information on the status of their working and living environment and also provide legal basis for public participation mechanism in the process of important decision-making by the state in order to foster democratic development in the country;
- d) To consider interests of investor, state and society in the process of making important decisions related to the implementation of planned activity;

Article 5. Main Terms used in the Provision

Terms used in the Provision, if there is no special indication, are explained in Article 6.

Article 6. Definition of Main Terms

1. „Environmental Impact Assessment" - the procedure of studying and researching of planned activity, which is aimed at protecting separate elements of the environment, humans, landscape and cultural heritage; Environmental Impact Assessment studies, reveals and describes direct and indirect impacts of planned activity on human health and safety, plants and animals, soil, air, water, climate, landscape, ecosystems and historical monuments or all above mentioned factors together as well as on cultural heritage and economical and social factors (for infrastructure projects).

2. „Activity" - industrial, economical or any other type of activity, implementation of development schemes and projects, infrastructure projects, sector development plans, projects and programs on protection, use and utilization of water, forest, land, mineral and other natural resources on the territory of Georgia, also reconstruction and technical and technological renewal of the existing enterprises.

3. „Subject of the Activity" - physical or legal body, which is an initiator of the activity and applies for environmental permit to the Authority responsible for issuing an environmental permit.

4. „Environmental Permit" - written decision of the Ministry of Environment of Georgia, its regional and local Department, Ministries of Environment of Adjara and Abkhazia. The content, registration rule and granting procedures for environmental permit are different for different categories of activity. Environmental Permit is an integrated one, which includes permit for emissions, disposal of waste etc.

5. „Consulting Company" — legal body, which according to service regulations has right to provide consulting in the field of environment.

6. „Environmental norms" - norms for the impact of activity on the environment, which provide ecological balance to the environment. For this purpose the following quantitative norms for the state of environment has been established - maximum permissible norms for the concentration of harmful substances and amount of microorganisms in the air, water and soil; maximum permissible norms for noise, vibration, electromagnetic fields and other physical impacts; maximum permissible norms for radiation impact; norms for use of chemicals in the environment; ecological requirements for products; norms for environmental loads.

7. „Significant reconstruction, technical and technological renewal" - significant reconstruction, technical and technological renewal, which requires project feasibility study (technical-economical feasibility).

8. „Regional Authority of the Ministry of Environment" - organizations, reporting to the Ministry of Environment, such as Ministries of Environment of Adjara and Abkhazia, Regional Environmental Departments, district structural units of Regional Environmental Departments and Tbilisi Committee on Environmental Protection.

9. „Best technology" - best from environmental point of view, viable and economically reasonable technology, which is the most effective in preventing, decreasing or reconstructing the negative impacts on environment; this technology might be not widely used, but its assimilation, introduction and application could be possible from technical point of view; the technology should be economically affordable for the initiator of the activity.

10. „Environment" - unity of natural environment and the environment, altered by human beings(cultural environment), which includes interrelated living and non-living natural elements,

natural and anthropogenic landscapes.

11. „Natural environment" - constituting part of the environment, which includes interrelated natural elements and natural landscapes created by them.

12. „(Cultural) environment, alerted by human beings" - constituting part of the environment, which includes natural environment, alerted by human beings, changed and mixed type ecosystems, interrelated changed natural elements and anthropogenic landscapes created by them.

13. „Environmental Protection" - Unity of administrative, economical, technological, political-legal and public measures, which provides preservation and restoration of the existing natural balance in the environment.

14. „Protected Area" - certain territory and (or) aquatoria protection and management of which is conducted on long-term and stable legal base to keep its biodiversity, natural resources and cultural phenomena. Protected Area are established for protection and restoration of significant national heritage -unique and rare ecosystems, species of plants and animals, natural and cultural areas, in order to use them with scientific, educational and recreational purposes.

15. „Sustainable Development" - such a system of the development of the society, which, taking into account economical development and environmental protection interests, provides the increase of quality of life and gives right to future generations to have an access to natural resources and healthy environment.

16. „Biodiversity" - the diversity of life organisms, land, marine and water ecosystems and ecological complexes, which include diversity inside the species, between the species and ecosystems.

17. „Environmental management system"- part of the management system and business strategy of an activity, which includes all aspect of its functioning, directly or indirectly connected to the issues of environmental impacts (environmental management plan, environmental policy, organization and personnel, environmental norms etc).

18. „State Ecological Examination" - necessary environmental procedure, which is carried out in the decision making process on granting an environmental permit for certain activity according to the Law of Georgia on"State Ecological Examination" from 15th October 1996 (Parliamentary Newsletter, Legislative Addition - Georgian Laws, 1996, No27-28/4).

19. „Law of Georgia on Environmental Protection" - Law of Georgia on „Environmental Protection" from 10th December 1996 (Parliamentary Newsletter, Legislative Addition-Georgian Laws, 1997, No 1-2 /33-34/ 7).

20. „Law of Georgia on Environmental Permit" - Law of Georgia on „Environmental Permit" from 15th October, 1996 (Parliamentary Newsletter, Legislative Addition - Georgian Laws, 1996, No27-28/4).

21. „Law of Georgia on State Ecological Examination" - Law of Georgia on"State Ecological Examination" from 15th October 1996 (Parliamentary Newsletter, Legislative Addition - Georgian Laws, 1996, No27-28/4).

Section II. Rights and Obligations in the Sphere of Environmental Impact Assessment

Article 7. *Rights of the authority, granting an environmental permit, initiator of an activity and public in the sphere of EIA*

1. Rights in the sphere of an EIA of the authority, which grants environmental permits, are defined by the „Law of Georgia on State Ecological Examination" from 15th of October, 1996 (Article 4, item 4 and 5), by „Georgian Law on Environmental Permit,, from 15th October, 1996 and by this regulation.
2. Rights in the sphere of an EIA of an initiator of the activity are defined by the „Law of Georgia on State Ecological Examination" from 15th of October, 1996 (Article 4, item 6 and 9), by „Georgian Law on Environmental Permit,, from 15th October, 1996 (Article 5, item 5, Article 7 item 2, Article 12 item 3 and 4. Article 13 item 4, Article 15, Article 17 item 1) and by this regulation.
3. Rights in the sphere of an EIA of the public are defined by the „Law of Georgia on State Ecological Examination" from 15th of October, 1996 (Article 4, item 6), by „Georgian Law on Environmental Permit,, from 15th October, 1996 (Article 16) and by present provision.
4. Obligations in the sphere of an EIA of an authority, which grants environmental permits, are defined by the „Law of Georgia on State Ecological Examination" from 15th of October, 1996 (Article 4, item 2, 3 and 6), by „Georgian Law on Environmental Permit,, from 15th October, 1996 and by this provision.
5. Obligations in the sphere of an EIA of an initiator of the activity are defined by the „Law of Georgia on State Ecological Examination" from 15th of October, 1996 (Article 10 and 11), by „Georgian Law on Environmental Permit,, from 15th October, 1996 (Article 5, item 1,2 and 4, Article 6 item 1, Article 7 item 1, Article 13 item 1 and 2, Article 14 item 7) and by this provision
6. Obligations in the sphere of an EIA of the public are defined by the „Law of Georgia on Environmental Protection" from 10th of December, 1996 (Article 7 , subarticle „d") and by this provision.

Chapter II.

Main Part

Section III. Principles of EIA procedure

Article 8. Main Principles of EIA

The main principles of EIA are the following:

1. Integrated consideration of technical, technological, ecological, social and economic characteristics the project solutions of the planned activity;
2. Possibility to elaborate project solution and alternative options, providing fulfillment of environmental norms;
3. Integrated consideration of local and regional factors;
4. Compliance with the principles of sustainability;
5. Openness and public information;
6. Objectivity and scientific justification of information used or found during an EIA process.

Section IV. Procedure of EIA

Article 9. Rules for carrying out an EIA

1. The EIA procedure defines the sources, types and quality of expected impacts from the first category activities, as defined by the Law, as well as integrated assessment of their ecological, social and economical effects while developing project documentation and

acquiring an environmental permit.

2. EIA procedure is undertaken by the subject of the activity in order to provide balance between ecological and socio-economical development of the planned activity. EIA procedure is carried out before the decision on implementation of the activity is taken.
3. EIA includes studying, revealing and describing the results of direct and indirect impacts of planned activity on:
 - a) human health and safety,
 - b) plants and animals,
 - c) natural and changed ecosystems,
 - d) landscapes,
 - e) soil, air, water, climate,
 - f) historical heritage,
 - g) socio-economic factors.

Article 10. Terms of conducting an EIA

1. The terms for carrying an EIA are defined by the subject of the activity, according to time needed for necessary documentation preparing.
2. The terms for carrying an EIA in order to give the Environmental Permit for I category activities are defined in the Law of Georgia on "Environmental Permit" (Article 7, part 6) and lasts 3 months.

Article 11. The subject of EIA

The list of 1st category activities subject to EIA is given in the Law of Georgia on "Environmental Permit" (part II, article 4).

Article 12. Content of EIA

EIA includes:

1. Gathering and analyzing of the information on the existing state of environment;
2. Identification of the sources, types and subjects of the impact;
3. Prediction of changes of qualitative and quantitative characteristics of the state of environment;
4. Identification of possibilities for emergency situations and assessment of their impacts;
5. Assessment of ecological, social and economical effects of planned activity;
6. Identification of ways to lessen and avoid negative impacts on environment and human health;
7. Identification of methods to control and monitor remaining impacts;
8. Conducting ecological-economical assessment of the project;
9. Analyses and selection of the alternative options to the project, elaboration of new options;
10. Identification of ways to restate the existing environment in case of the completion of the activity;
11. Public information and inventory of public opinion;
12. Post project analyses;
13. Assessment of types and quantity of possible emissions;
14. Prediction of the "possible state of environment" taking into account the factors that impact on environment;
15. Make environmental management and monitoring plans at different stages of activity (including course of implementation and completion).

Article 13. Stages of and EIA procedure

1. EIA is implemented and financed by the subject of activity by help of the consulting company.
2. EIA consists of several logically connected stages:

a) Stage I

- 1) gathering and if necessary studying information about the existing state of environment;
- 2) gathering and analyzing the information on methods and means of realization of planned activity, on construction, operation and liquidation, energy and raw material sources, taking into account infrastructure and best available technology;
- 3) identification of possible emissions to the environment, amounts and characteristics of wastes on various stages and regimes of the subject's activity, elaboration of plans for their transport, disposal, utilization and abolishment;
- 4) study and analyses environmental factors (air, water, soil, flora, fauna, geology, climate, protected areas etc.) in the context of possible impact on them;
- 5) analyses of the existing socio-economical situation in the area of the location of the activity and prediction of possible changes resulting from planned activity;

b) Stage II

based on the existing information, identification of sources, types and subjects of possible impacts of implementation options of planned activity.

c) Stage III

In order to identify the scale and type of environmental impacts the following should be defined:

- probability of impact to be happen;
- factors of the impact;
- main subjects of the impact (population, natural resources, landscape, ecosystems, biodiversity, historical and cultural heritage etc)
- scale of the impact;
- geographical distribution of impact;
- impact distribution in time;
- types of impact (direct, indirect, cumulative etc);
- prediction of a "new" state of the environment, caused by impact.

d) Stage IV

Risk assessment should be done for possible emergency situation, including:

- probability analyses and scenarios of possible emergency situations;
- possibility to localize and liquidate the results of the emergency situations;
- elaboration of a plan to liquidate and mitigate the impacts from emergency situations.

e) Stage V

Should be defined:

1. the possibility to decrease the impacts,
2. the possibility to implement best available technologies,
3. the possibilities of all types of emissions and to minimize, manage and utilize wastes.

f) Stage VI

EIA should reveal possible impacts of project's implementation on:

- human health and living environment;
- separate components and complexes of the environment;
- direction of public socio-economical status and development, which includes: employment of the population, social, economic and demographic structural changes (including esthetical, cultural, ethnical and other aspects).

g) Stage VII

1. Methods for control and monitoring of impacts should be identified.
2. Plans to mitigate or avoid possible negative impacts on environment should be elaborated.
3. Environmental protection strategy and a plan for its management should be worked out for each stage of activity implementation.

h) Stage VIII

Ecological-economical assessment of project solutions taking into account proposed alternatives, including zero option (not implementing the project at all)

Article 14. Form and content of the application needed to obtain Environmental Permit

1. According to Article 5 of the Law of Georgia on “Environmental Permit”, the subject of activity should apply for the environmental permit to the authorities responsible for the issuing Environmental permit.
2. The application concerning first category activities should include the EIA report.
3. The applications concerning first category activities should also include information about:
 - a) type of planned activity, name and address of subject of activity,
 - b) location of planned activity,
 - c) probable date of start and completion of activity,
 - d) aims of activity,
 - e) plans of the buildings, needed for implementation of the activity,
 - f) brief description of technological process,
 - g) list of substances supposed to be received in technological process,
 - h) detailed description of activities, planned to decrease negative impact on environment,
 - i) list and quantities of natural resources to be used,
 - j) types and scales of possible emissions
 - k) methods defined to assess the scale of emission,
 - l) types and quantities of wastes of activities, possible places of their disposal, activities planned to reduce and process the wastes,
 - m) measures taken to prevent emergency situations.
4. The form of application concerning activities of all other categories is defined according to the Article 5, unit 4 of the Law on “Environmental Permit” of Georgia.

Article 15. EIA report

1. To obtain the environmental permit from Ministry of Environment of Georgia on the 1st category activity, the application presented by the subject of activity should include results of an EIA reflected in an EIA report,
2. EIA report should be supplemented by:
 - a) Agreement documentation with governmental organizations, competent for separate aspects of decision-making on project design and implementation;
 - b) Materials, reviewing the results of public participation in EIA process, including main objections (if any);
 - c) Environmental management and environmental impact mitigation plans;
 - d) Emergency response plans considering local circumstances;
 - e) Non-technical summary of EIA report, supplemented with illustrations and graphics in order to provide public participation process.
 - f) Name and legal address of the organization or consulting company, which carried out EIA and compiled the results;
 - g) Brief information on the aim of project implementation and justification of its advisability;
 - h) Criteria for selecting the location for the project, including alternative options;
 - i) Description of the existing state of environment under the impact;
 - j) Review of cartographic materials and information sources, used to study the existing state of the territory and the environment;
 - k) List of environmental legislation and regulations, used in the process of project development, including review of methodic and technical literature;
 - l) Further control and monitoring program for environmental safety of production or service process;
3. EIA report should allow the authority, responsible for State Ecological Examination, to assess correctly project documentation from the environmental safety point of view, check the compliance of the project with relevant environmental legislation and standards, compile conclusions on the correctness of the project information, acquired during an EIA process, and based on that, the advisability of the selected solution.

Article 16. Protection of information presented in EIA report.

1. Information included in EIA report as well as in application, which is provided by the investor is a possession of this investor and must not be passed to any other person without his written approval.
2. The investor has right to deny the providing of information to opened discussions, according to Article 17 of Law on “Environmental Permit” of Georgia.
3. If EIA report includes economical, commercial and state secrets, Ministry of environment is responsible for keeping this kind of information in confidence, according to Article 6 of Law on “Environmental Permit” of Georgia.

Section V. Organization of EIA process

Article 17. Organization of EIA process.

1. Organization and carrying out of EIA is the responsibility of investor (subject of the activity).
2. The rights and obligations of investor in organization of EIA are defined in Law of Georgia on "Environmental Permit" (Article 13,15,17).

Article 18. Consulting Company

1. "Consulting Company" is a legal body, which, according to its regulation (in case legislation do not envisages other special permit or license) has right to undertake consulting service in the filed of environmental protection;
2. For the purpose of conducting an EIA, investor has authority to select legally registered local, as well as foreign environmental consulting company.

Article 19. Financing EIA

Financing of EIA process is the responsibility of an investor (subject of the activity).

Article 20. Liberation from EIA process.

1. Activity can be released from EIA in cases described in Article 14, unite 4 of the Low on “Enviromental Permit” of Georgia.
2. Decision on liberation from EIA is made by “EIA special council”, which is attached to the Ministry of Environment. The staff, functions and regulations of the council are defined by the Ministry of Environment on the bases of it’s own legal acts.
3. The members of the council may be the representatives of State Executive Power, which are reccomended (in written form) to the Ministry of Environment by their cheafs.
4. Society member may be admeted to “EIA special council” as an observer.
5. The decision of the council must be approved by the Ministry of Environment.

Section VI. Amenability for violating norms on EIA process organization, carrying and result examination

Article 21. Amenability/or violating norms on EIA process organization, carrying and result examination

1. Amenability for organization and implementation of EIA in the process of project documentation preparation for different kind of activities lies with the investor.
2. Legal amenability for violating norms on EIA process organization, implementation and result examination lies with the state authority issuing environmental permit.

Section VII. EIA in Transboundary Context

Article 22. EIA in Transboundary Context

In case there is a possible transboundary effect from the planned activity, EIA should be carried out according with International Conventions, Agreements and Georgian Legislation.

Section VIII. Public Participation in an EIA process

Article 23. Public Participation in an EIA process

Public participation in EIA process is defined by Georgian Law on "Environmental Permit" (chapter I, II, article 15, 16).

**Chapter III.
Final Part**

Section IX. Final Conclusions

Article 24. Rules for amending or making additions to the EIA provision

Amendments or additions to this provision shall be done by the Ministry of Environment and Natural Resources Protection according to Georgian legislation.

Section X. Transitional provisions

Article 25. Legal documents approved in order to implement present provision.

For implementation of present provision following individual legal statements must be approved:

1. The order of Minister of Environment of Georgia confirming "EIA special council" work regulation.
2. The order of Minister of Environment of Georgia confirming "EIA special council" staff.