a. Give the short "CV" of the expert, who has prepared it.

b. Use the questions as they are written in English in the letter from the European Court rather than the translated version and use numbered paragraphs for the answers, as each answer has several paragraphs.

c. Use pages numbers.

Question No. 2:

What measures under the domestic legislation, if any, did the Government implement to effectively manage the impact of operation of the Heat and Power Plant ("the HPP") upon environment? For instance, did the Government issue a permit or license for operating the HPP and allowing adverse impact upon environment?

Answer:

The Law of Georgia on Environmental Permits entered into force in October 1996. Preamble of the Law indicates that "This law shall apply only to activities intended to be implemented after the entry into force of the Law". To say in other words, persons who started activities before the entry into force of the Law that is before 1997 are liberated from the mandatory requirement of obtaining an environmental permit (and, therefore, also from mandatory State ecological examination, evaluation of impact upon the environment, etc.). Because the HPP started operation in 1911, it has therefore been liberated from the mandatory procedure of obtaining such a permit.

d. Explain more clearly the action of the Georgian law on "Environmental Permits" of 1997 and the Resolution N 154 of the Government of Georgia of 2005. (In it's observation the government stated that Georgian law on "Environmental Permits" and "State Ecological expertise" are applicable only to the activities which are being conducting after the entry into force of the said laws (from 1997) and by the Government's Resolution N154 the companies (HPP and others like this) which started their activities before 1997 are required to obtain the environment impact permission until 1 January 2009. It is not clear what was occurring during 1997-2005 (before adoption the resolution)? The government did not mention anything about this. Also if the laws of 1997 were obligatory for the new companies, which laws were obligatory for HPP, if any was?

The Law required observance of the following procedures in order to obtain an environmental permit. According to Article 5 of the Law, in order to obtain an environmental permit, an investor shall submit to the Ministry or its regional/local organs an application, which should include supporting documentation, the investor's request for issuing a permit, a project containing technical and economic substantiation, a conclusion of the State Sanitary Supervision Service that the planned activity complies with sanitary and hygienic rules and norms, and a conclusion on impact upon the environment (an HPP falls within the 1st Category of activities, according to the Law). A request shall include the following information:

(a) description of the planned activity; identity and address of the investor;
(b) location of the planned activity;
(c) tentative dates of start and end of the activity; objectives of the activity;
(d) a diagram of buildings required for the implementation of the activity;
(e) a short description of the technological process;
(f) a list of substances generated as a result of the technological process;
(g) a detailed description of measures planned to reduce impact on environment and social factors;
(h) a list and quantity of natural resources that will be used;
(i) volume and type of expected emissions;
(j) methods planned to measure the volume of emission;
(k) types of remnants of the production process as well as their quantity, possible places where they can be allocated, and measures to reduce and re-process the remnants;
(l) safety measures planned to avoid technological breakdowns (accidents). (this paragraph was inserted on 08.05.2003 and entered into force 3 months later).

For activities falling within the 1st, the 2nd and the 3rd categories, the investor shall also submit together with the application a short annotation of the activity, which shall include:

- description of the planned activity; identity of the investor;
- location of the planned activity;
- tentative dates of start and end of the activity;
- objectives of the activity;
- category of the activity;
- an address where representatives of society will be able to familiarize with the activity-related documents.

The above information will be published in the press and will be provided to representatives of society.

As it was mentioned above, an HPP falls within the 1st category of activities. Article 7 of the Law specifies the procedure for issuing an environmental permit for 1st category activities, in particular:

1. In order to obtain an environmental permit for the 1st category activities, an investor shall conduct an Evaluation of Impact upon Environment ("the EIE").
2. For the purpose of properly conducting of the EIE and ensuring participation of public in this process, an investor has the right to conduct public discussion of an EIE and provide representatives of society with research materials of the EIE.
3. After the Ministry has received an application for issuing an environmental permit for a 1st category activity in a complete manner, it shall perform procedures prescribed by the Law, including a State ecological examination of the planned activity (rules of conducting a State ecological examination are governed by the Law of Georgia on State Ecological Examination) and inclusion of the public into the decision-making process regarding issuance of the permit.
4. Within 10 days after the application is received, for the purpose of informing the public, the Ministry shall:

(a) ensure publication in the press of the investor's request and the brief annotation, together with information regarding the time and place of public discussion of issues related to implementation of the activity;
(b) within 45 days after publishing information about the activity, receive and review written comments from representatives of society.

5. The Ministry shall within 2 months after receipt [of what, the comments of the public?] arrange public discussion of the issues related to implementation of the activity with the participation of the investor, the Ministry, local governance bodies and representatives of society.
6. The maximum term for reviewing the activity-related documentation by the Ministry is 3 months.
7. A copy of an application shall be kept in an organ of the Ministry where the review of the documentation will take place and where representatives of society can, upon request, familiarize with the request for issuing the permit (except information containing commercial, industrial and state secret) during the entire period of reviewing of the request.
8. Within this term, the Ministry shall:
   - conduct a State Ecological Examination on the basis of the submitted supporting documentation;
   - ascertain whether the activity or its certain parts comply with the requirements of the Georgian legislation;
   - ascertain whether the activity or its certain parts comply with environment protection norms applicable in Georgia;
   - ascertain measures which should necessarily be carried out to reduce impact on environment during the implementation of the activity and, based on a conclusion of the State Ecological Examination and taking into account the public opinion, decide on issuance of an environmental permit.

Article 11 of the Law also articulates grounds for refusing issuance of an environmental permit, in particular:

1. The Ministry or its regional/local organs shall not issue a permit of activity if:
   (a) implementation of the activity will result in violation of the Georgian legislation;
   (b) implementation of the activity will result in violation of the environment protection norms applicable in Georgia and if aggravation of environmental conditions on the place of the planned activity will be entailed by usage of a technology which does not comply with technological norms established by the legislation;
   (c) implementation of the activity (in case of infrastructural projects) would be inappropriate due to its location, contents or scale;
   (d) implementation of the activity will not violate the environment protection norms but there exists an experience where a similar activity or its part caused aggravation of the health of the population;
   (e) implementation of the activity would violate sanitary and hygienic rules and norms applicable in Georgia and create a threat for human health. *(this subparagraph was adopted on 08.05.2003, which entered into force 3 months after its publication)*

2. If issuance of a permit is refused, the Ministry or its regional/local organs shall, following expiration of the established term (3 months for the 1st category activities),

inform the investor in writing about its decision together with a detailed substantiation of refusal.

As regards the EIE: according to Article 14 of the Law, if the activity an investor is planning to implement falls within the 1st category, the EIE is considered as a necessary and important part of the process of issuing an environmental permit. Issuance of an environmental permit for 1st category activities is prohibited without an EIE. Exceptions are allowed only if an investor is repeating or continuing a previously started activity for which an EIE has been performed and repetition of which cannot involve additional information or if the public interests warrant the commencement of the activity and a prompt decision-making on this matter.

A decision to liberate an activity from the EIE procedure can be made, upon an investor's request, by a special Council on impact upon environment, whose composition and functions shall be determined by the Ministry. A Council decision shall be approved by the Minister.

As it was mentioned earlier, an HPP, as a person implementing an activity, had and continues to have the obligation to observe environmental norms. These obligations are articulated in Chapter VIII of the Law on the Protection of Environment (Environmental Norms); in particular, according to Article 28 of the Law, the purpose of establishing environmental norms is to set a framework of rules ensuring ecological equilibrium. To achieve this purpose, the following norms are established:

(a) Norms concerning quality of environment;
(b) Marginal admissible norms of harmful emissions into the environment and pollution of environment with microorganisms;
(c) Norms concerning use of chemical substances within the environment;
(d) Production-related ecological requirements;
(e) Norms concerning burden on the environment.

According to Article 29 of the Law (norms concerning quality of environment), the following are the norms of quality of environment:

(a) marginal admissible norms of concentration of substances that are harmful to human health and natural environment within the atmospheric air, water and soil;
(b) marginal admissible norms of noise, vibration, electromagnetic field and other physical impact;
(c) marginal admissible norms of radioactive impact.

Article 30 of the Law establishes marginal admissible norms of harmful emissions into the environment and pollution of environment with microorganisms. In particular: such marginal admissible norms are elaborated per each specific source of pollution, taking into account its technological specificities and general pollution of the location, so that the concentration of emitted substances and microorganisms on the spot shall not exceed marginal admissible concentration level. In specific circumstances, temporary marginal admissible norms can be established with certain requirements and for a certain term, which shall not exceed 5 years.

e. It would be better to indicate here also the specific acts, which states the standards of the environmental protection norms as well as all the standards that we need (degrees and norms of noise, energetic….) and indicate what is in our case.

As regards the production-related ecological requirements and norms about burden on the environment, pursuant to Article 32 of the Law, they concern food and extraction of natural resources – issues that are not a matter of importance in this specific case.

Which agencies can take what measures if the aforementioned norms are not observed?

We should first determine the legal basis articulating the competencies of taking measures (responding to the situation). These competences are described in the Law on the Protection of Environment; in particular, according to Article 13 of the Law (Competences in the field of environmental protection), the following fall within the Ministry's competence:
F. which Ministry-?

(a) management of related fields;
(b) State management of environmental protection and rational, stabile and comprehensive usage of natural resources;
(c) State control;
(d) environmental monitoring, organizing a unified system of observation of environmental conditions; (30.06.2000, Legislative Herald of Georgia 465a)
(e) other functions prescribed by the legislation of Georgia.

The Ministry is responsible for regulation and supervision of an integrated control system of environmental pollution both at the national level and at the regional, local and specific objects level.
G. Where is this stated?

In the field of environmental protection, the competence of the Ministry of Health Protection is to exercise State sanitary supervision over observance of sanitary and hygienic norms and sanitary and epidemiologic rules as well as to perform other functions prescribed by the Georgian legislation.

The following facts are also noteworthy. The Ministry of Environmental Protection had in its structure, according to its internal Statute, the Tbilisi Committee for the Protection of Environment and Regulation of Natural Resources (liquidated several years ago), which in fact was under double subordination (under both the Tbilisi Municipality and the Ministry of Environmental Protection, which was not in compliance with the then applicable legislation). At the same time, the Committee, as one of the units of the Tbilisi Municipality, was financed by the Tbilisi Municipality and its chairman was also appointed by the Mayor of Tbilisi. It should be noted that due to this circumstance, the Ministry had had its function of environmental control on the territory of Tbilisi delegated to Tbilisi Municipality and the Ministry did not have its own unit financed by the Ministry to perform this function. The Committee was performing the function of exercising an environmental control on the territory of

Tbilisi. In terms of its competences, the Committee differed in two major points from today's Environmental Inspection:
H. When it changed? It's not clear

1. The Committee was not reviewing cases of administrative liability itself; instead, it was forwarding its protocols on violations of environmental standards to courts; (i. Why it is important and how do you know?)

2. Unlike today's Environmental Inspection, the Committee did not have the right to seal an object, an enterprise or a device. This would require a court decision (except well-founded and truly urgent cases, pursuant to the Law on Control over Entrepreneurial Activity).

Now we can turn to description of measures that may be used in case of violation. Basically, there exist three types of such measures:

1. Administrative (governed by the Administrative Offences Code);
2. Criminal (Criminal Code); and
3. Civil (Civil Code).

When it comes to the third type of measures, in additions to relevant Civil Code provisions, the following legal acts are also applicable:

(a) Order of the Minister of Environmental Protection and Natural Resources No. 538 dated 5 July 2006 approving "Methods of calculating damage inflicted upon environment", which has been issued on the basis of Article 22(2)(a) of the Law of Georgian on State Control over the Protection of Environment and Article 61(1) of the General Administrative Code of Georgia.
(b) The Law on State Control over the Protection of Environment, itself;
(c) Law on Compensation for Damage Caused by Hazardous Substances (this Law was adopted on 23 July 1999).

Purpose of the Law on Compensation for Damage Caused by Hazardous Substances is to ensure that compensation is paid for damage inflicted on human health and life, environment, historical and cultural objects, property and economic interests as a result of impact of hazardous substances upon environment, irrespective of existence or non-existence of guilt in inflicting such damage.
For the purposes of this Law, natural gas and its derivative other gases and substances (an HPP operates on natural gas) are considered as hazardous substances and an HPP is considered as the responsible person: (f) A responsible person shall mean a person who when producing, processing, storing, transporting, using or allocation of hazardous substances (separately or together with other substances) pollutes the environment with hazardous substances as well as a person who owns or controls hazardous substances or a person who on behalf of other person produces, processes, stores, transports, uses or allocates hazardous substances. A person referenced in Article 4 of this Law is obliged to pay compensation of a damage inflicted to other person or inflicted by polluting a territory as a result of production, processing, storage, transportation and usage of hazardous substances. A responsible person is also obliged to pay:
(a) compensation in case of trauma inflicted to a person or death of a person;
(b) compensation of sums required for immediate response, including costs for limitation of spread of hazardous substances, prevention of pollution, restoration

and renewal of polluted environment by the State, a state enterprise or any other person;
(c) compensation for economic loss inflicted upon the income an owner, an employer or a consumer, including compensation for damages inflicted upon water resources, soil, buildings and agricultural crops;
(d) compensation for damages inflicted to the State as a result of pollution of environment.

A responsible person is not liberated from the obligation to pay for costs related to first response measures and further measures, including the obligation to reimburse costs incurred by any person for limitation of spread of hazardous substances, prevention of pollution, restoration and renewal of polluted environment.

A responsible person is also obliged to insure the risk of pollution, which may be caused by his activity involving hazardous substances or, before starting the activity, to present a document confirming his solvency indicating a minimum insurance amount (Article 8). However, as we already mentioned previously, (j. Where was mentioned about this? Please use the numbered paragraphs for answers) such mandatory insurance mechanism is not operational this far.

As regards the Law on State Control over the Protection of Environment (adopted on 23 June 2005), according to its Articles 9 and 12, the Environmental Inspection is empowered to exercise State control over protection of environment; check objects, draw up protocols on administrative violations in accordance with rules prescribed by the legislation, review cases of administrative violations and use administrative liability measures against offenders (drawing up protocols on administrative violations, reviewing cases of administrative violations, enact resolutions on imposing administrative punishments); to eliminate an administrative violation, to seal an object or a device in accordance with rules prescribed by the legislation; address relevant authorities with a request to stop usage of natural resources in violation of legal requirements; in accordance with rules prescribed by legislation request cancellation or suspension of a license/permit or alteration of license/permit conditions; in cases prescribed by the legislation send materials to relevant authorities with a view of making decision on imposing liability on persons responsible; for the purpose of reimbursing damage inflicted on State by pollution of environment or unlawful usage of natural resources, present claims for reimbursement of damages to regulated objects and, if such claims are left unsatisfied, address a court with an appropriate lawsuit (as stated in the Ministry's letter (k. to Gyla, date of the letter), the Inspection, since its date of creation, has never checked the HPP.

Since 2005, the Law on Licenses and Permits entered into force, according to which the environmental permit prescribed by the Law on Environmental Permits and the license of hazardous impact upon environment prescribed by the Law on Protection of Environment have been transformed into "a permit of impact upon environment" (Article 24. Types of Permits, Paragraph 4, Permit for impact upon environment). Pursuant to the Resolution of the Government of Georgia No. 154 dated 1 September 2005, all objects that started operation before 1997 (including the HPP) must obtain this permit before 1 January 2009. In particular, according to Article 15(2) of the Law (transitional provisions), for an activity that is subject to the EIE, which started before the entry into force of the Law on Environmental Permits, it is mandatory to obtain a

permit of impact upon environment before 1 January 2009 on the basis of a plan (program) agreed with the Ministry. (l. It would be better to transfer this in the second paragraph)
(m. How many times need the company for receiving the environmental permit? Before 1st January 2009 the companies must have the environmental permit or begin the legal process for receiving this one.)

This means that the HPP must obtain a permit of impact upon environment before 1 January 2009 and, until this date, must also observe environmental requirements from which it is not liberated, like other implementing subjects. [Environmental requirements imply all requirements indicated in the Constitution, Law on the Protection of Environment and other sectoral environmental laws (related to soil, atmospheric air, water, etc). I think is it technically impossible to review all of these laws and provisions in detail. Moreover, basic principles related to protection of various components of environment are the same in all laws and are derived from the Constitution and the Law on the Protection of Environment.] The State shall exercise control over its operation, according to competences (scopes of competencies were discussed above).

As regards compliance with environmental requirements, as the Ministry says in its letter dated 2 October 2007, the HPP does not have pollution-related technical documents (a technical report on the inventory of hazardous substances, a project of marginal admissible norms of emission, norms of allowed emission, emission quotas), which are valid for 5 years. The requirement to have these documents is found in the Law on the Protection of Atmospheric Air (adopted on 22 June 1999), in particular its Article 14 (pollution of atmospheric air with microorganisms and microbe-type biologically active substances), Article 15 (impact of noise, vibration, electromagnetic fields and other types of physical impact on atmospheric air), Article 18 (marginal admissible norms of concentration of hazardous substances in atmospheric air), Article 28 (limitation of spreading hazardous substances from fixed sources of pollution into atmospheric air), Article 29 (quota of spreading hazardous substances from fixed sources of pollution into atmospheric air) and Article 32 (inventory of fixes sources of pollution and the procedure of approval of quotas).
Also, Article 28(2) of the Law on the Protection of Atmospheric Air stipulates that approval of quotas of spreading hazardous substances from fixed sources of pollution into atmospheric air is identical in its meaning to granting a right to carry out an activity involving emission of hazardous substances into environment which is granted by a license of harmful impact upon environment prescribed by Article 24 of the Law on the Protection of Environment.

Certainly, it is the obligation of the State to control availability of these documents and then having them in order.

If an enterprise does not have these documents, it will be subject, to the full extent, to liability prescribed by the Administrative Offences Code, Criminal Code, Civil Code, Law on State Control over the Protection of Environment, Law on Compensation of Damage Caused by Hazardous Substances and the Order of the Minister of Environmental Protection and Natural Resources No. 538 dated 5 July 2006 approving "Methods of calculating damage inflicted upon environment". (n. Did the authorities take any measures towards the HPP?)

Question No. 3:

Did the State conduct an ecological examination and audit of the disputed actions or did it request the enterprise to submit an EIE?

Answer:

As it was already mentioned above, no State ecological examination was carried out because the HPP started operation before 1997 and it was therefore liberated from the obligation to obtain an environmental permit. For the same reason, the HPP has not submitted an EIE (required for 1st category activities). Regarding an environmental audit, according to Article 20 of the Law on the Protection of Environment (an environmental audit), an environmental audit shall be carried out at the implementing subject's initiative or by decision of the Ministry in special cases prescribed by the Georgian legislation; to the best of my knowledge, the Ministry has not taken such a decision to conduct an environmental audit of the HPP.

What is implied by "special cases" is not defined in the Law; however, Article 21(3) of the Law says: "The Ministry may decide to carry out an environmental audit for the purpose of evaluating ecologic conditions of privatized economic objects, establishing an ecological risk and ascertaining costs of required cleaning and restoration works".

Question No. 4:

Did the State study and find out whether the impact of the device upon environment complied with "environmental protection norms", "norms concerning quality of environment", "marginal admissible norms of harmful emissions into the environment and pollution of environment with microorganisms" and "quotas of spreading hazardous substances from fixed sources of pollution into atmospheric air"?

Answer:

As it was already mentioned, according to the Ministry's information, the HPP does not have any of the pollution-related technical documents. Regarding "norms concerning quality of environment", these are fixes values and their observance is mandatory for all implementing subjects, including the HPP; they have not been determines especially for the HPP and this could not happen. The HPP is obliged to observe them, like all other implementing subjects.

These norms, pursuant to Article 60 of the Law on the Protection of Atmospheric Air (Normative acts adoption of which is required in connection with the entry into force of the Law), shall be approved through own relevant under-laws by the President of Georgia, Minister of Environment Protection, and the Minister of Environment Protection and Health Minister through a joint order. A competent organ may, at its initiative, check a specific enterprise whether the latter is observing these norms; such organ also can (must) respond appropriately; it shall check an enterprise also on the basis of intelligence information or citizens' notices.

Question No. 5:

Did the State make the enterprise implement measures to prevent accidents and did the State ensure compliance of the enterprise's activity with industrial safety requirements such as those prescribed in Articles 17, 39 and 40 of the Law on the Protection of Environment?

Answer:

Pursuant to Article 17 of the Law on the Protection of Environment (Ecological insurance), "in Georgia there shall be ecological insurance, including a mandatory ecological insurance of objects engaged in ecologically specially hazardous activities." Today, the HPP, like other implementing subjects active in Georgia, has no ecological insurance because there is no appropriate legal framework. Therefore, the HPP cannot be forced to have such insurance.

Article 39 of the Law on the Protection of Environment (General environmental protection requirements in the process of implementing an activity) stipulates the following:

> "In implementing an activity, requirements related to ecological safety and protection of the health of the population must be observed; measures aimed at protection of environment, rational usage of natural resources and environmental restoration shall be envisaged as well as financial resources to implement such measures. An implementing subject is obliged to:
> (a) have plans agreed with the relevant State authorities for the prevention of results of technological breakdowns and natural calamities, for prompt and systemic remedial measures and for actions to be taken in times of breakdowns or calamities;
> (b) create and maintain in a ready condition a unit equipped with technical means for the liquidation of breakdowns;
> (c) timely inform the relevant State authorities and the population of any expected and already happened technological breakdown or natural calamity;
> (d) legal regime of fulfillment of these requirements is prescribed by the Georgian legislation.

Supervision over compliance with these requirements is exercised by the Technical Supervision Service. In case an enterprise does not have these planned it is considered that this enterprise does not meet licensing/permit conditions (if such conditions were indicated by the Technical Supervision Service) and the Technical Supervision Service is entitled to take a number of measures (for instance, the Service may use administrative measures such as imposing a fine or, until the defaults are eliminated, may request restriction/suspension of the operation of the enterprise; in case the defaults are still not eliminated within the set terms, the Service may decide to cancel the enterprise's licensing/permit documents or to deprive the enterprise of these documents. It should be noted that an implementing subject may be subjected to forced measures irrespective of whether or not it has permit/licensing documents from the Technical Supervision Service because the requirement of availability of such documents is independently set by the Law on the Protection of Environment and failure to have these documents itself is a violation of law.

The HPP does not have plans agreed with the relevant State authorities for the prevention of results of technological breakdowns and natural calamities, for prompt and systemic remedial measures and for actions to be taken in times of breakdowns or calamities. Nor does it have a unit equipped with technical means for liquidation of breakdowns.(o. how do we know?)

Regarding the issue of forcing the HPP to observe requirements related to ecological safety and protection of the health of the population and to allocate appropriate financial resources (Article 39 of the Law on the Protection of Environment, General environmental protection requirements in the process of implementing an activity): this means that the State, by exercising control over having plans indicated in Article 39 of the Law, shall indirectly force the implementing subject to allocate appropriate financial resource; to say in other words, the State shall exercise control over (1) creation of these plans (2) creation and financing of units required by these plans; and (3) proper performance of their duties by such units.
Failure to comply with aforementioned points (1) and (2) (failure to finance these measures) should automatically cause liability (according to the established rules, certainly).

According to Article 40 of the Law (requirements related to putting economic objects into operation), an economic object cannot be put in operation unless the following is ensured:

(a) proper operation of devices for neutralization of hazardous remnants, cleaning structures and means of control over the conditions of the environment;
(b) existence of means of implementation of environmental protection measures, as foreseen by the project.

Prohibitions contained in the mentioned article do not apply to the HPP (p. Why? It's not very clear) as it functions since 1911 and the mentioned article governs relations that have arisen only after the entry into force of the Law.

Question No. 6:

Did the State impose a fine or other sanctions upon the enterprise for the reason of polluting the environment?

Answer:

Pursuant to Ministry's information (q. Letter and date), the Environmental Inspection, since its date of creation (September 2005), has never checked the HPP and has therefore never imposed any sanctions on it.

Question No. 7:

Does the Georgian legislation require that a sanitary zone be observed between the enterprise and a living building?

Answer:

Such obligation is prescribed by many legislative and under-law acts governing the fields of environment and health protection (FYI, the Law on Public Health adopted 27 June 2007, invalidated Order of the Minister of Health and Social Protection No. 234/N dated 6 October 2003 on approval of Sanitary Protective Zones and Sanitary Classification of Enterprises, Buildings and Other Objects.). Existence of such zones, to-date, is based on the requirement to observe relevant norms; to say in other words, in order for a zone to be considered created (observed), an implementing subject must strictly fulfill the requirements of the law. For instance, Article 22 of the Law on Public Health (Ensuring safe environment for public health) states:

1. For the purpose of ensuring safe environment for public health, the Ministry establishes quality norms concerning safe environment for public health (atmospheric air, water, soil, noise, vibration, electromagnetic radiation), which include values of marginal admissible concentrations and hazardous impact.
2. Observance of environmental quality norms by physical and juridical persons shall be controlled by a relevant competent organ.
3. Liability of persons violating environmental quality norms is determined by the Georgian legislation.
4. […]
5. […]
6. […]
7. <u>In places where people live or are permanently present, environmental quality conditions shall not be harmful for people in these places and shall not exceed marginal admissible norms established by the Ministry.</u>
8. A person whose activity caused violation of environmental quality norms in places where people live or are permanently present, shall be punished according to rules prescribed by the Georgian legislation."

In addition, there exists the Order of the Minister of Labor, Health and Social Protection No. 297/N dated 16 August 2001 on approval of Environmental Quality Norms. Pursuant to the Order, for the purpose of ensuring safe environment for public health and preventing negative impact of environment and anthropogenic factors on public health, based on Article 70 of the Law on Health Protection, Article 29 of the Law on the Protection of Environment and Article 21(11) of the Law on Water, the following environmental quality norms were approved:

"(c) Rules of sanitary protection and hygienic norms of atmospheric air at populated areas:

(c)(a) "Hygienic requirements concerning protection of atmospheric air at populated areas – Sanitary Rules and Norms" (Annex 6);

(e) Sanitary rules and hygienic norms concerning impact of radio-frequency-range electromagnetic radiation on human beings:

(e)(a) Radio-frequency-range electromagnetic radiation – (RFR EMR) – Sanitary Rules" (Annex 8)

(f) Sanitary rules and hygienic norms of impact of noise and vibration on human health:

(f)(a) "Noise at workplaces, living places, public buildings and populated areas – Sanitary Rules and Norms" (Annex 10)

(f)(b) "Industrial vibration, vibration at living and public buildings – Sanitary Rules and Norms" (Annex 11).

r. What standart norms are stated in these rules and what is in our case?

However, it is an established fact that there is no sanitary zone between the HPP and living buildings; therefore it can be said that environmental quality norms are violated, as established also by the Supreme Court.

At the same time, it is necessary to mention that claims regarding observance of a sanitary zone can be presented only to the architects of the living building because the HPP was built first in 1991 and the living building was built in its direct vicinity afterwards in 1952. Therefore, it is impossible to establish that the design and building of the living building were conducted in violation of the environmental legislation. This has rightly and directly been mentioned by the Supreme Court in its Decision (motivation part).

Question No. 8:

What else the Government could do to reduce the device's impact upon environment?

Answer:

A list of measures the State should take to reduce such impact is usually determined in the process of conducting an ecological examination (EIE) and issuance of an environmental permit. Such measures are of individual character and directed at reducing to the minimum the negative factors caused by the specific activity of the implementing subject. They may be indicated by the Ministry as a separate group of obligations in the form of one of the preconditions for allowing the activity. Because the HPP was liberated from mandatorily obtaining a permit, not only additional but even basic measures have not been determined. Presumably, this must take place after necessary procedures for obtaining an environmental permit are fulfilled, which should happen before 1 January 2009.

s. What do you think about invoking the Aarhus Convention and Kiev Protocol on pollutant release and transfer registers? _ This was signed by the Georgian Government in 2003.