


**FORMAT FOR AARHUS CONVENTION IMPLEMENTATION REPORT
CERTIFICATION SHEET**

The following report is submitted on behalf of Georgia in accordance with decision I/8

Name of officer responsible for submitting the national report:	<u>Nino Gokhelashvili – Head, International Relations Division, Environmental Policy and International Relations Department, Ministry of Environment Protection and Natural Resources of Georgia</u>
Signature:	
Date:	<u>03.12.2010</u>

Deleted: Nino Gokhelashvili – Aarhus Focal Point, Senior Specialist of International Relations and Project Preparation Division, Department of Sustainable Development

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IMPLEMENTATION REPORT

Please provide the following details on the origin of this report

Party	Georgia
National Focal Point	
Full name of the institution:	The Ministry of Environment Protection and Natural Resources of Georgia (MEPNR)
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Name and title of officer:	
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I. PROCESS BY WHICH THE REPORT HAS BEEN PREPARED

Provide brief information on the process by which this report has been prepared, including information on which types of public authorities were consulted or contributed to its preparation, on how the public was consulted and how the outcome of the public consultation was taken into account and on the material, which was used as a basis for preparing the report.

Answer: On August 9, 2010 the draft report prepared by the Ministry of Environment Protection and Natural Resources of Georgia (MEPNR) was sent to the following governmental institutions: the Committee of Environment Protection and Natural Resources of the Parliament of Georgia, the Ministry of Science and Education, the Ministry of Economy and Sustainable Development, the Ministry of Finance, the Ministry of Labor, Health and Social Affairs, the Ministry of Regional Development and Infrastructure, the Ministry of Internal Affairs, the Supreme Court, Tbilisi City Hall and the Ombudsman. The draft report was also disseminated through an electronic network for public comments for the period 24 September -20 October, 2010. Comments were received from one NGO. The part of the comments and recommendations were incorporated in to the report. For the rest of comments appropriate explanations were sent to the NGO. On November 8, 2010 a public hearing on the amended draft report was held. Representatives of the MEPNR, six NGOs, and the Aarhus Centre Georgia participated in the public hearing. Some additional changes were made to the report. On November 12, 2010 the report was sent to the Aarhus Centre to be translated into English. On December 3, 2010 the final English and Georgian versions of the report were sent to the Secretariat of the Aarhus Convention.

Deleted: The first draft report was delivered to the all Ministries (8), t

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Deleted: n, the Supreme Court and the Constitutional Court of Georgia on 2 August, 2007

Deleted: the CENN (Caucasus Environmental NGOs Network)

Deleted: In October, when the comments have been received and considered, the second draft report was prepared and disseminated again through the CENN. The public hearing was held on 28 November, 2007. The report was completed and sent to the secretariat on 17 December, 2007.

Deleted: is available at the Aarhus Centre Georgia's web-site in both Georgian and English languages..

II. PARTICULAR CIRCUMSTANCES RELEVANT FOR UNDERSTANDING THE REPORT

Report any particular circumstances that are relevant for understanding the report, e.g. whether there is a federal and/or decentralized decision-making structure, whether the provisions of the Convention have a direct effect upon its entry into force, or whether financial constraints are a significant obstacle to implementation (optional).

Answer:

- The Convention applies directly (According to the Law of Georgia on International Agreements (Article 6, Paragraph 2) international agreements have advantage over the national legislation).

- For the proper implementation of the Aarhus Convention it is advisable to update national legislation to improve relevant procedures.

- Financial constrains are a significant obstacle to the collection, elaboration, edition and dissemination of the information.

Deleted: - Necessary procedures for implementation the Convention are developed at the minimum level because of institutional difficulties of authority and a poor public awareness as well

**III. LEGISLATIVE, REGULATORY AND OTHER MEASURES IMPLEMENTING THE
GENERAL PROVISIONS IN PARAGRAPHS 2, 3, 4, 7 AND 8 OF ARTICLE 3**

List legislative, regulatory and other measures that implement the general provisions in paragraphs 2, 3, 4, 7 and 8 of article 3.

Explain how these paragraphs have been implemented. In particular, describe:

(a) With respect to **paragraph 2**, measures taken to ensure that officials and authorities assist and provide the required guidance;

(b) With respect to **paragraph 3**, measures taken to promote education and environmental awareness;

(c) With respect to **paragraph 4**, measures taken to ensure that there is appropriate recognition of and support to associations, organizations or groups promoting environmental protection;

(d) With respect to **paragraph 7**, measures taken to promote the principles of the Convention internationally:

(i) Measures taken to coordinate within and between ministries to inform officials involved in other relevant international forums about article 3, paragraph 7, and the Almaty Guidelines, indicating whether the measures to coordinate are ongoing;

(ii) Measures taken to provide access to information at the national level regarding international forums, including the stages at which the access to information was provided;

(iii) Measures taken to promote and enable public participation at the national level with respect to international forums (e.g. inviting NGO members to participate in the Party's delegations in international environmental negotiations or involving NGOs in forming the Party's official position for such negotiations) including the stages at which the access to information was provided;

(iv) Measures taken to promote the principles of the Convention in the procedures of other international forums;

(v) Measures taken to promote the principles of the Convention in the work programs, projects, decisions and other substantive outputs of other international forums;

(e) With respect to **paragraph 8**, measures taken to ensure that persons exercising their rights under the Convention are not be penalized, persecuted or harassed.

Answer:

*(a) The current Georgian Legislation is in compliance with the most of the requirements of the Convention (see below). Besides, the Convention **has superior force** (please, see answer on the previous question). The following is envisaged according to the current Georgian Legislation: the Law of Georgia on the Protection of Environment (**10 December, 2010**) envisages the protection of citizens' rights in environmental matters. In particular, regarding the Article 6 of this law, each citizen has **the right to live in a***

healthy environment, to obtain complete, impartial and timely information on the state of his/her working and living surroundings as well. In order to inform the public, the MEPNR of Georgia, in compliance with Article 14 of the above law, submits the National Report on the State of Environment to the President of Georgia once every three years. Promulgation of the national report is necessary to ensure the principle of its accessibility for the public. In accordance with Article 15 of this law” for protection and sustainable development of the environment the environmental protection planning system (Sustainable Development Strategy) is being developed, which itself is a long- term strategic plan. It is necessary to ensure the public participation in the development of the Sustainable Development Strategy”.

- (b) In accordance with the Paragraph (d) Article 6 of the Law of Georgia on the Protection of the Environment, “a citizen has the right to receive environmental and ecological education, to raise his/her environmental awareness. The entire system of environmental education is set up in order to promote environmental education and environmental awareness among the public and to train experts in this field. The system includes the network of secondary schools, institutions for training of personnel and improvement of their skills”.

The MEPNR developed “The State Program for Public Ecological Education” that was approved by Presidential Decree in 2002. In 2004 the Government of Georgia adopted the National Goals of General Education that, among others, addresses the preservation and protection of the natural conditions of the environment.

- (c) In accordance with Article 6, Paragraph (e) of the Law of Georgia on the Protection of Environment, a citizen of Georgia has the right to join public environmental organizations. The environmental NGOs are legal entities and have the same rights as other non-commercial (non-profit) legal entities. The procedures of registration NGOs are quite simple. Registration is conducted by the National Agency of Public Registry - a Legal Entity of Public Law under the Ministry of Justice of Georgia. Article 29 of the Civil Code of Georgia defines the terms of registration of non-profit (non-commercial) legal person.

According to the Law of Georgia on State Registry, the price for the registration of non-profit (non-commercial) legal person, registration of amendments to the registered data and their abolishment in one working day is 100 GEL¹. There is no legal norm that prohibits inclusion of NGOs in the governmental bodies that are responsible for decision-making on environmental issues. NGOs have the right to participate with a consulting status in the committee hearings and meetings held by the Parliament and Executive Government. The Regulation of the Parliament of Georgia provides the opportunity to the representatives of civil organizations to attend and take the floor on the committee hearings of draft laws (e.g. Article 48, Paragraph 11 and Article 153, Paragraph 8).

- (d) In 2006 English and Georgian versions of the Almaty Guidelines were disseminated to all relevant organizations in Georgia.

Georgia, according to the principles of the Convention, always supports public participation in global international and regional environmental processes.

In general, the non-governmental sector regularly participates in international forums. To support NGO participation in international forums held in Georgia the government, when possible, provides particular financial assistance. The government also supports NGO participation in official delegations.

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¹ As of 10 December, 2010, 100 USD equals to 178 GEL

(e) The principles of the Aarhus Convention are protected under the Constitution of Georgia, the Law of Georgia on Protection of Environment and the General Administrative Code of Georgia. In accordance with Article 42 of the Constitution of Georgia, each person has a right to apply to the court for protection of his/her human rights (among them, the rights granted by the Convention) and liberty.

IV. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 3

Describe any **obstacles encountered** in the implementation of any of the paragraphs of article 3 listed above.

Answer:

- It is worth noting that according to the #77 Decree of the Government of Georgia (April 22, 2005) the State Commission for Sustainable Development of Georgia was established. According to this decree, the function of the Secretariat of the Commission is assigned to the MEPNR. Georgia still does not have a long-term sustainable development strategy. However, it should be mentioned that by the initiative of the MEPNR and by the support of UNECE the Second Environmental Performance Review for the period of 2004 - 2009 has been prepared (EPR II). In addition, the Second National Environmental Action Plan (NEAP 2, 2011-2015) is being developed. Also, with the support of the EU, the State of Environment for 2007-2009 is under preparation (SoE). The abovementioned documents create a basis for the development of a sustainable development strategy.

Deleted: Notwithstanding the existence of current Georgian Legislation there are many practical obstacles in implementation.

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V. FURTHER INFORMATION ON THE PRACTICAL APPLICATION OF THE GENERAL PROVISIONS OF ARTICLE 3

Provide further information on the **practical application of the general provisions of the Convention**.

Answer:

The Service of Public Relations is the structural unit of the MEPNR.

Since 2009 the hot line "070" of the MEPNR has been in operation. The hot line allows citizens to obtain information about their specific interest in time . Moreover and to provide information to the MEPNR about violations, allowing the MEPNR to respond rapidly.

In November 2010 the "Information Centre" was opened at the MEPNR. The aim of the Centre is to assist and instruct the public about the environmental issues of their interest.

The officials of the MEPNR have public reception hours that increase the MEPNR's transparency.

The Service of Public Relations, in the development of environmental education and public awareness raising, organizes the following activities:

Conferences, seminars and trainings on different topics for various target groups; Eco-tours, eco-camps, tree planting and clean up campaigns, etc.; Student meetings with the Minister.

Since 2009 the monthly electronic newsletter on the activities of the MEPNR has been disseminated. By the initiative of the MEPNR "Green Club" for students is established. To ensure transparency and publicity of activities of the MEPNR, the Public Council has been created, which consists of well known and trustworthy people of Georgia. The aim of the Council is to ensure public participation, to promote public awareness and to prepare appropriate recommendations and proposals. In 2009 within the framework of "Dialogue with Public" about 100 meetings were arranged about the activities of the MEPNR. In the large cities of Georgia "Report to People" campaigns were organized. The aim of the campaigns was to

Deleted: The National Report on the State of Environment is being elaborated annually according to national legislation: the report of 2005 is placed on "Aarhus Centre" website and is accessible for everyone. The second National Environmental Action Plan (NEAP) is in the process of elaboration. The experts' reports on priority activities had been prepared and will be submitted to the Government of Georgia this year. There were some cases when decisions regarding the big projects were made with violations of existing legislation (it was caused either because of lack of knowledge in environmental legislation from the side of some governmental bodies and investors or because of lobbying for the special interests) in previous years. Environmental organizations expressed their great protest against abovementioned events and the situation has been improved a little after this; though the actions from the government regarding this case is not sufficient yet!
The subjects considered in "State Program for Environmental Education of Population" are clearly defined in the range of study programs. The "National Goals Document" is elaborated, the considerable part of which to environmental education. The system of school environmental education is currently in order.

familiarize the public with the activities of the MEPNR. Media project “Green Broadcast” is broadcasted weekly on TV and radio. Representatives of the MEPNR participate in TV and radio programs on numerous environmental issues.

With the support of various donor organizations and within the framework of international projects conferences, symposia and educational campaigns for school children, university students, media representatives and the general public are conducted; Short documentary films, and programs, video clips, appropriate literature, information brochures and web pages are prepared; Vocational, Bachelor’s and Master’s programs are introduced in different educational institutes; Several demonstration projects are completed.

According to an analysis of 2010 survey results, public awareness about protected areas of Georgia, as well as their importance, has increased by 14%. For public involvement and improvement of protected areas’ management, first Friends Associations in Georgia were created in 2010, by representatives of local population, governmental, non-governmental and business sector and international organizations.

Some structural units of the MEPNR have thematic websites that provide regularly updated information on current activities of the respective units.

MEPNR employees participate in local and international training programs and other educational programs that improve their professional capabilities according to present demands and standards.

Trainings on different demand-oriented environmental topics are conducted for the MEPNR employees and other relevant ministries as well as for the representatives of business and non-governmental sectors.

In 2009 Aarhus Centre Georgia in close cooperation with MEPNR and the High School of Justice arranged training for judges with the aim to familiarize the participants with the requirements and obligations under the Aarhus Convention and to share international experience. The training was conducted by the Aarhus Convention Compliance Committee expert.

The Aarhus Centre in cooperation with Tbilisi State University prepared and in 2009 introduced, the course – International Environmental Law for the bachelor’s degree students of the Law Faculty.

By the joint initiative of the Aarhus Centre and the Law Faculty of Tbilisi State University a training course on the Implementation of the Aarhus Convention in Georgia for students of Law and Geography Faculties has been conducted since 2009.

In 2010 social advertisements on public rights under the Aarhus Convention was prepared. Broadcasting of the advertisements on the National Channel of Georgian Public Broadcaster is planned for late 2010.

VI. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 3

Give relevant web site addresses, if available:

<http://moe.gov.ge>; <http://aarhus.ge>; www.apa.gov.ge; biomonitoring.moe.gov.ge;
www.gdi.gov.ge; chm.moe.gov.ge.

VII. LEGISLATIVE, REGULATORY AND OTHER MEASURES IMPLEMENTING THE PROVISIONS ON ACCESS TO ENVIRONMENTAL INFORMATION IN ARTICLE 4

List legislative, regulatory and other measures that implement the provisions on access to environmental information in article 4.

Deleted: Currently Such coordination group does not function; ¶
- “National Objectives of General Education” was approved in 2004, where the role of environmental education was emphasized. On the basis of this document, elaboration of national study plans of general education were completed in May 2005 where environmental education is considered as a priority. These activities are being implemented on the basis of above-mentioned program. This process became more active after the conference of the Ministers of Environment and Health (Lithuania, 2005)

Explain how each paragraph of article 4 has been implemented. Describe the transposition of the relevant definitions in article 2 and the non-discrimination requirement in article 3, paragraph 9. Also, and in particular, describe:

- (a) With respect to **paragraph 1**, measures taken to ensure that:
 - (i) Any person may have access to information without having to state an interest;
 - (ii) Copies of the actual documentation containing or comprising the requested information are supplied;
 - (iii) The information is supplied in the form requested;
- (b) Measures taken to ensure that the time limits provided for in **paragraph 2** are respected;
- (c) With respect to **paragraphs 3 and 4**, measures taken to:
 - (i) Provide for exemptions from requests;
 - (ii) Ensure that the public interest test at the end of paragraph 4 is applied;
- (d) With respect to paragraph 5, measures taken to ensure that a public authority that does not hold the environmental information requested takes the necessary action;
- (e) With respect to paragraph 6, measures taken to ensure that the requirement to separate out and make available information is implemented;
- (f) With respect to paragraph 7, measures taken to ensure that refusals meet the time limits and the other requirements with respect to refusals;
- (g) With respect to paragraph 8, measures taken to ensure that the requirements on charging are met.

Answer:

The Administrative Code of Georgia, 1999 (especially [Chapter III](#)) generally covers the requirements of [Article 4](#) of the Convention, i.e. [all](#) information (not only environmental information) [held](#) by public authorities is available to the public unless the information is confidential.

[Each interested person has a right to request](#) the information (the General Administrative Code of Georgia, [Article 37](#)).

Information about protection [of the environment and](#) data on the dangers which can threaten [to](#) human life and health, should not be confidential (the General Administrative Code of Georgia, [Article 42, a](#))

- (a) (i): *In accordance with the General Administrative Code of Georgia ([Article 37, Paragraph 2](#)) a person is entitled to access to information without having to state an interest;*
- (ii): *In accordance with the General Administrative Code of Georgia ([Article 37, Paragraph 1](#)) any person [has the right](#) to acquaint with information in the original. If there is a risk of damage [to](#) the [original](#) document, [the](#) public authority is obliged to ensure the [supervised review of the document](#) or provide [the](#) person with [a](#) properly confirmed copy of [the document](#);*

(iii): In accordance with the General Administrative Code of Georgia ([Article 37, Paragraph 2](#)), any person has a right to choose the form of obtaining the information if the public authority holds this information in several forms:

(b) Stricter time-limits are established in Georgia for providing the information than requires the Convention. In accordance with the General Administrative Code of Georgia ([Article 40, Paragraph 2](#)), the information should be issued immediately and at the latest within 10 working days. The public authority is required to make the information available to applicant in the existing form. The Public authority is not required to compose any kind of information for the public request (see also a review of implementation of [Article 5](#)). This approach is in compliance with the principles of the Convention:

(c) (i) In accordance with the General Administrative Code of Georgia, there are four types of confidential information in Georgia: the personal ([Article 27¹](#)), commercial ([Article 27²](#)), professional ([Article 27³](#)) and the state ([Article 27⁴](#)). Clear procedures are established for granting a confidential status to the state or commercial information. A special stamp with such status exists on the documents. The following information is noted on the stamp: a status of confidentiality; the institution which grants the confidential status to the information and its time limit (commercial confidential information has no time limit). Part I of Article 31 states that if not prohibited by other applicable regulations the confidential status is granted with no time limit to the commercial and the professional information. Decisions, which were made regarding the granting the confidential status to the information or rejection the confidentiality of information, are included in the public register (i.e. it is open to the public, [Article 31](#)). There is also a list of information what should not be confidential (among them, information on the environment and data on the dangers, which can threat to the human life and health, [Article 42](#)).

All information, that identifies a natural person, is his/her personal information and a person resolves himself/herself the question about the transparency of this information ([Article 27, 27¹](#)). Confidentiality of the public officers who prepare the document is protected as well, except the governmental-political officials (the executive privilege, [Article 29](#)).

Subparagraph b) of [Paragraph 3](#) and subparagraphs a), g), h) of [Paragraph 4](#) of the [Article 4](#) of the Convention are not applicable in Georgia.

(ii) The Convention applies directly. Public authorities are obligated to meet its requirements:

(d) In accordance with the Administrative Code of Georgia ([Article 80](#)), public authorities have stricter requirements than the Convention. When receiving an application for the request of information, the public authority is obliged to identify itself appropriate public authority having the information requested within 5 days and transfer the application to that public authority. The application with explanation should be returned back to the applicant within 5 days from the date of application if such institution is not determined:

(e) In accordance with the Administrative Code of Georgia ([Article 33](#)), the reasonably separated remainder of the information should be disclosed after exception of the confidential information from the document. When issuing such a document the following information should be noted: the confidentiality of the excepted part of the document, the person who granted a confidential status, a reason of confidentiality and time limit:

- (f) In accordance with the Administrative Code of Georgia (Article 41), stricter requirements are established regarding the refusal of an information request than is set out by the Aarhus Convention. The applicant should be informed of refusal immediately. Following this, a written explanation should be given to the applicant within 3 days. The explanation should include which institution was consulted when making the decision regarding the refusal. The right and rule to claim against this decision should be noted as well.
- (g) In accordance with the Administrative Code of Georgia (Article 99), no fee should be charged for information except for copying or posting the information. The law of Georgia on Fees to Make a Copy on Public Information (13 May, 2005) defines the rules and the price of copying of public information.

Deleted: the Convention, the applicant should be informed in advance regarding the level of charges that may be levied. This is a new requirement and public authorities should pay attention to that

VIII. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 4

Describe any obstacles encountered in the implementation of any of the paragraphs of article 4.

Answer:

- There are some cases when 10 days is not enough time for seeking the information and make it available because of its big volume or complexity.

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IX. FURTHER INFORMATION ON THE PRACTICAL APPLICATION OF THE PROVISIONS OF ARTICLE 4

Provide further information on the practical application of the provisions on access to information, e.g. are there any statistics available on the number of requests made, the number of refusals and their reasons?

Answer:

- In accordance with the General Administrative Code of Georgia (Article 49), every year on December 10, each public authority is obliged to submit a report to the President of Georgia and to the Parliament on the information provided to the public.
- The Service of Public Relations of the MEPNR produces statistics on the request for and responds to public information officially received at the Service of Public Relations and the chancellery of the MEPNR.

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X. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 4

Give relevant web site addresses, if available:

<http://www.moe.gov.ge>; <http://aarhus.ge>

XI. LEGISLATIVE, REGULATORY AND OTHER MEASURES IMPLEMENTING THE PROVISIONS ON THE COLLECTION AND DISSEMINATION OF ENVIRONMENTAL INFORMATION IN ARTICLE 5

List legislative, regulatory and other measures that implement the provisions on the collection and dissemination of environmental information in article 5.

Explain how each paragraph of article 5 has been implemented. Describe the transposition of the relevant definitions in article 2 and the non-discrimination requirement in article 3, paragraph 9. Also, and in particular, describe:

- (a) With respect to **paragraph 1**, measures taken to ensure that:
 - (i) Public authorities possess and update environmental information;
 - (ii) There is an adequate flow of information to public authorities;
 - (iii) In emergencies, appropriate information is disseminated immediately and without delay;
- (b) With respect to **paragraph 2**, measures taken to ensure that the way in which public authorities make environmental information available to the public is transparent and that environmental information is effectively accessible;
- (c) With respect to **paragraph 3**, measures taken to ensure that environmental information progressively becomes available in electronic databases which are easily accessible to the public through public telecommunications networks;
- (d) With respect to **paragraph 4**, measures taken to publish and disseminate national reports on the state of the environment;
- (e) Measures taken to disseminate the information referred to in **paragraph 5**;
- (f) With respect to **paragraph 6**, measures taken to encourage operators whose activities have a significant impact on the environment to inform the public regularly of the environmental impact of their activities and products;
- (g) Measures taken to publish and provide information as required in **paragraph 7**;
- (h) With respect to **paragraph 8**, measures taken to develop mechanisms with a view to ensuring that sufficient product information is made available to the public;
- (i) With respect to **paragraph 9**, measures taken to establish a nationwide system of pollution inventories or registers.

Answer:

- (a) (i) In accordance with Article 27, Paragraph 1 of the Law of Georgia on Environmental Protection, “the system of monitoring is the unity of analysis of information obtained after observation over the state of the environment and its forecasting”. The MEPNR coordinates the environmental monitoring system (Article 27, Paragraph 2). Results of environmental monitoring are available to the public (Article 27, Paragraph 3). The state registration, reporting and assessment of qualitative and quantitative indices of the state of environment are managed and coordinated by the MEPNR within its competence together with the Ministry of Labor, Health and Social Affairs, the Ministry of Agriculture and other relevant institutions in accordance with the rule established by the Georgian Legislation (Article 26, Paragraph 2).

- (ii) Entrepreneurs, whose activities require environmental impact permits, are obliged to

Deleted: Unfortunately, financial and other obstacles hamper full implementation of this requirement of the Convention!

follow the conditions defined in the conclusion of ecological expertise (revision of EIA report). Monitoring of the compliance with the conditions of the environmental permit is conducted by the Inspection of Environmental Protection according to the Law of Georgia on Inspectorate of Environmental Protection.

According to the State Register Forms, every entrepreneur delivers an annual report on water discharge and emissions to the MEPNR.

(iii) Information about hazards that can affected human life and health, natural and anthropogenic disasters and other incidents which have already happened or can happen in the future and threat an civil security should not be confidential (the General Administrative Code of Georgia, Article 42; the Law of Georgia on The State Secret, Article 8). According to the Law of Georgia on Protection of the Population and the Territory from the Natural and Anthropogenic Emergency Situations (Article 8, Paragraph 3) local governments and administration of legal entities are responsible to provide comprehensive and timely information to the public via mass media (printed or electronic means, including the internet). Article 8 of the mentioned law states that information on emergency situations is public.

According to the same law (Article 1, Paragraph k) the National Response Plan on Natural and Anthropogenic Emergency Situations provides the unified system of response plans of ministries, state sub-agency organizations of ministries and legal entities of public law on the protection of the population and the territory from natural and anthropogenic emergency situations.

According to the Presidential Decree (August 26, 2008) on the Approval of National Response Plan on Natural and Anthropogenic Emergency Situations information about emergency situations is disseminated through public and private broadcasting companies as well as by cars equipped with “loud speakers”.

Regarding this issue, the following principles of the Law of Georgia on Public Health the following is worth-mentioning (Article 4, Paragraphs a) and b)):

- a) Provision of preventive measures against the threats to public health;
- b) Clear definition of competences of state bodies engaged in public health issues and strong informational coordination of these structures in planning and implementation of public health related activities.

Chapter II of the above mentioned law defines the rights and obligations of the public and legal entities concerning public health issues. According to the Article 5, e), every person residing in the territory of Georgia is obliged to notify the Public Health Service about any emergency situation caused by violation of sanitary norms in production and technological processes.

According to Article 35, Paragraph 6 of the same law, the Ministry of Justice, the Ministry of Internal Affairs and the Ministry of Defense are obliged to inform the Public Health Service about any circumstances that may pose hazard to the health and safety of the population. According to the national legislation, information about emergency situations is public information and should be accessible to everybody unless, in particular cases, when the reasons for the emergency situations and persons are under investigation.

It should also be mentioned that Article 233 of the Criminal Code of Georgia defines criminal sanction in cases of concealing or distorting information about emergencies or accidents at nuclear or radioactive installations. According to the Article 247 of the Criminal Code of Georgia, criminal sanction is applicable in the case of concealing or fabricating information about conditions posing hazard to human health and life.

- (b) Each public authority is obliged to keep public register of information (the General Administrative Code of Georgia, [Article 35](#)). [These public registers are open to everyone.](#) [According to the General Administrative Code of Georgia](#) each public authority is obliged to designate a person in charge who makes environmental information available to the public and whose basic work is to reply [to information request.](#)
- (c) [Information on ongoing and completed MEPNR activities is posted on its web site.](#) The web site is constantly updated. [Since 2009 the Aarhus Centre has been uploading monthly newsletters “Short Review of the Environmental Pollution of Georgia”.](#)
- (d) In accordance [to the Law of Georgia on Environmental Protection \(Article 14, Paragraph 1\)](#) the [MEPNR](#) submits the [National Report on the State of Environment to the President of Georgia every three years](#) The 2001, 2002, 2003, 2004 and 2005 National Reports are placed on the web site of [the Aarhus Centre Georgia.](#)
- (e) [On the web sites of the MEPNR and the Aarhus Centre information described in the Paragraph 5 of the given Article is posted. For operative dissemination of information, in addition to the website of the Ministry, the website of the Aarhus Centre, electronic networks of Caucasus Environmental NGOs Network \(CENN\) and Regional Environmental Centre for the Caucasus \(REC Caucasus\) and mass media are applied by the Ministry.](#)
- (f) [The national legislation contains no provision or norm corresponding to this Paragraph that offers incentives to the operators of small and medium enterprises.](#) ▼
- (g) The meetings are [conducted](#) with NGOs at the [MEPNR](#) for reporting on the activities of [the Ministry](#) and consultations regarding other significant issues.
- (h) In accordance with [Decree # 3 of the Minister of Environment Protection and Natural Resources of Georgia \(January 15, 1999\) on the approval of regulation on Eco-labeling, the eco-label is awarded by interdepartmental commission to ecologically clean products produced in Georgia. The legislative norm adopted in 2003 states that the packaging of the product should have the information about the product in the national language. The Decree # 2-231 of the Minister of Agriculture of Georgia \(December 11, 2009\) on the Approval of Additional Requirements for Food Labeling provides additional requirements for any type of food products in Georgia and aims at ensuring protection of consumers’ economic interests.](#) ▼
- (i) [A feasibility analysis of the pollutant release and transfer register \(PRTR\) was done. Under the project – Strengthening Capacity for Designing a National Pollutant Release and Transfer Register and Supporting Strategic Approach to International Chemicals Management \(SAICM\) in Georgia – development of the national register is under way.](#)

Deleted: prepared and approved according to the decree of President of Georgia. The 2006 report is currently in the process of elaboration, which after approval will be

Deleted: The procedure of granting the eco-label to the products exists in Georgia formally. The Eco-labels shall be issued by the interdepartmental commission on the basis of the decision of the experts’ commission (the Ministerial Decree N3, 15 January, 1999, MoE)

Deleted: , the information about product on its packing should be in national language.

Deleted: The special requirement regarding the environmental information is not formalized

Deleted: The MoE is going to study European experience of pollutant register and elaborate progressive introduction of this experience in Georgia

Deleted: The absence of clear procedure (i.e. what type, volume and origin of information should be collected, processed and published) is the significant obstacle for collecting, processing and dissemination of information. Generally, the following practical obstacles are remarkable: lack of knowledge, experience and motivation of public officers; inadequate office equipment; lack of financial resources both for covering the current expenditures and hiring qualified experts when it is necessary

XII. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 5

Describe any **obstacles encountered** in the implementation of any of the paragraphs of article 5.

Answer:

- [Collection, appropriate processing and dissemination of information is partially regulated. Despite the fact that Public Relations Service collects, processes and uploads certain information obtained from the structural units of the Ministry, some problems and gaps in this direction still exist.](#) ▼
- [In order to timely obtain environmental information from the public institutions, development of an entire environmental database for facilitation of seeking of information is needed. The MEPNR is currently working with applicable institutions regarding this issue.](#)

- The high cost of publishing the information hampers the dissemination of information stated in Paragraphs 5 and 7.

The regulation for Eco-labeling practically does not work.

The obstacles to dissemination of information in regions of Georgia are relatively overcome with a proper functioning postal service and internet availability.

Deleted: The existence of regular press organ at the MoE would improve the situation significantly¶

XIII. FURTHER INFORMATION ON THE PRACTICAL APPLICATION OF THE PROVISIONS OF ARTICLE 5

Provide further information on the practical application of the provisions on the collection and dissemination of environmental information in article 5, e.g. are there any statistics available on the information published?

Answer:

- The office work database has been developed at the MEPNR.

There is an institutional system of data transfer in the fields of hydrometeorology, geodynamic processes, engineering protection and environmental pollution. Two types of information – standard and specific about hydro meteorological conditions and the state of environmental pollution are prepared for consumers. The standard format for hydro meteorological conditions data and the state of environmental pollution, the list of state organizations and institutions that routinely receive the information time frames and means of delivery (currier, fax, e-mail and postal service) are predefined. The standard information about hydro meteorological conditions, the state of environmental pollution and preventive measures of coastal protection is disseminated free of charge. Specific types of information about hydro meteorological and geodynamical conditions, appropriateness of construction activities at coastal areas and the state of environmental pollution that are prepared according to specific requirement of consumers require fees that depend on the type of service provided for processing of information.

Interconnection of databases on the monitoring of hydrological, meteorological, geodynamic processes, coastal formation and environmental pollution is performed in the Legal Entity of Public Law - National Environmental Agency, which is under the MEPNR. The issue of interconnection of databases created in other environmental governmental and non-governmental organizations still requires regulation. At present development of this system is underway.

Different methods are used to ensure the data quality of observation and monitoring of meteorological, hydro meteorological and environmental pollution.

On the web site of the Ministry of Internal Affairs of Georgia information about emergency situations in Georgia as well as response measures and appropriate activities to be taken to ensure safety is constantly uploaded. Statistical analysis, risk maps about potential emergency situations and response measures for such situations are also provided on the website. With the participation of the Ministry of Internal Affairs of Georgia a course on “Civil Defense and Security” has been introduced in the schools of Georgia. Training about response measures in emergency situations and about dissemination of information on such situations were conducted for executives of local authorities. The Ministry of Internal Affairs, in cooperation with different governmental and non-governmental organizations, periodically prepares and publishes popular materials about response measures in emergency situations.

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- The web site has been developed at the MoE for transparency of the current work of the MoE and timely dissemination of information. The web site is available through the internet and it will be updated permanently (it will be activated in the nearest future) ¶
- The MoE uses electronic network of CENN, REC and Aarhus Centre for dissemination of information

XIV. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 5

Give relevant web site addresses, if available:

<http://www.moe.gov.ge>; <http://aarhus.ge>; www.rec-caucasus.org; www.cenn.org;
<http://police.ge>.

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XV. LEGISLATIVE, REGULATORY AND OTHER MEASURES IMPLEMENTING THE PROVISIONS ON PUBLIC PARTICIPATION IN DECISIONS ON SPECIFIC ACTIVITIES IN ARTICLE 6

List legislative, regulatory and other measures that implement the provisions on public participation in decisions on specific activities in article 6.

Explain how each paragraph of article 6 has been implemented. Describe the transposition of the relevant definitions in article 2 and the non-discrimination requirement in article 3, paragraph 9. Also, and in particular, describe:

- (a) With respect to **paragraph 1**, measures taken to ensure that:
 - (i) The provisions of article 6 are applied with respect to decisions on whether to permit proposed activities listed in annex I to the Convention;
 - (ii) The provisions of article 6 are applied to decisions on proposed activities not listed in annex I which may have a significant effect on the environment;
- (b) Measures taken to ensure that the public concerned is informed, early in an environmental decision-making procedure, and in an adequate, timely and effective manner, of the matters referred to in **paragraph 2**;
- (c) Measures taken to ensure that the time frames of the public participation procedures respect the requirements of **paragraph 3**;
- (d) With respect to **paragraph 4**, measures taken to ensure that there is early public participation;
- (e) With respect to **paragraph 5**, measures taken to encourage prospective applicants to identify the public concerned, to enter into discussions, and to provide information regarding the objectives of their application before applying for a permit;
- (f) With respect to **paragraph 6**, measures taken to ensure that:
 - (i) The competent public authorities give the public concerned all information relevant to the decision-making referred to in article 6 that is available at the time of the public participation procedure;
 - (ii) In particular, the competent authorities give to the public concerned the information listed in this paragraph;
- (g) With respect to **paragraph 7**, measures taken to ensure that procedures for public participation allow the public to submit comments, information, analyses or opinions that it considers relevant to the proposed activity;

- (h) With respect to **paragraph 8**, measures taken to ensure that in a decision due account is taken of the outcome of the public participation;
- (i) With respect to **paragraph 9**, measures taken to ensure that the public is promptly informed of a decision in accordance with the appropriate procedures;
- (j) With respect to **paragraph 10**, measures taken to ensure that when a public authority reconsiders or updates the operating conditions for an activity referred to in paragraph 1, the provisions of paragraphs 2 to 9 are applied making the necessary changes, and where appropriate;
- (k) With respect to **paragraph 11**, measures taken to apply the provisions of article 6 to decisions on whether to permit the deliberate release of genetically modified organisms into the environment.

Answer:

- In Georgia the provisions of this Article are applied with respect to environmental impact permits. Not only NGOs but also any interested party has a right to participate in the process and a right to claim for procedural and essential legality. The obligatory components of the process are: submission of the documents for public examination and announcement of availability, receiving comments, conduct the public hearing and publishing a decision. An administrative decision made under a breach of process is considered to be canceled. Everyone has a right to claim against such decision and to reach its cancellation. The established procedure for issuing permits meets almost all the requirements of Article 6:

- (a) The Law of Georgia on Environmental Impact Permit (December 14, 2007) defines the list of activities subject to ecological expertise. All these activities are subject to environmental impact assessment that covers the procedures of the Article 6.
- (b) The Law of Georgia on Environmental Impact Permit (Article 1, Paragraph 2), ensures the public participation during the decision-making on issuing environmental permits. According to the Georgian legislation, the developer is obliged to conduct public hearing of EIA prior to application to the relevant Administrative Agency for the permit (Article 6).
- (c) The issues related to public consultations are defined in the Law of Georgia on Environmental Impact Permit. According to the law, submission of written public comments and suggestions starts the day the announcement of a planned activity is published and continues for 45 days (Article 6, Paragraph 4, Sub-paragraph b)).
- (d) According to the Law of Georgia on Environmental Impact Permit the developer is obliged to conduct a public hearing on the EIA report no earlier than 50 days before and no later than 60 days after publishing the announcement on a planned activity (Article 6, Paragraph 4, Sub-paragraph b)). Only after the public hearing has been arranged, the developer can apply to the administrative agency to obtain the permit for starting the activity. Information on the activity is published in both the central and local newspapers (in the newspaper of that particular region where the activity is planned to be implemented) and publication of the announcement is to be ensured by the developer. Information on the activity should include: aim of the planned activity, title, location, address where public can familiarize with the documents

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Deleted: The investor is to publicize the planned activity through both central and local (the newspaper of that particular region where the activity is planned to be implemented) newspapers. This announcement should include the following information: type and location of the proposed activity, name and address of the investor, goals and category of the activity, approximate schedules for the activity, the address where the public can acquire with the documents related to the activity Time frame for submission of public comments as well as date and time of the public hearing should also be included in the announcement.

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on the activity are located and the deadline for the submission of comments and time and place of public hearing.

- (e) Developer is required to carry out a study of environmental impact assessment and prepare the EIA report before publishing the announcement on the activity and applying to the administrative agency for a permit. The has the right to consult with the public. The results of such consultations should be attached to the permit application.
- (f) According to the Law of Georgia on Environmental Impact Permit, the developer is obliged to provide the public with the EIA report and all significant documents at the public hearing, receive public comments and suggestions expressed during or prior to the public hearing and prepare the public hearing protocol and submit it to the administrative agency issuing the permit. This information is available to any interested party (Articles 6 and 7). According to the Law of Georgia on Environmental Impact Permit (Article 8, Paragraph 2, e) if the activity includes state or commercial secrets developer should submit statement on the confidentiality of the application. According to the Paragraph 3 of the same Article, developer has to provide a complete scheme of technological cycle to the administrative agency issuing permit even if the activity includes entrepreneurial, commercial and state secret (there were no examples of the above case during issuing of environmental permit by the MEPNR).
- (g) Any person has a right to give written comments and suggestions to the developer within 45 days after the announcement on the activity is published (Article 6, Paragraph 4, b). The developer must consider public comments and suggestions and take them into account when preparing the final version of the EIA report.
- (h) The given issue is regulated by the Article 7 of the Law of Georgia on Environmental Impact Permit that requires the developer to prepare the protocol on the results of the public hearing within 5 days after the public hearing of the EIA report. The protocol should describe in detail the public comments and suggestions made at the public hearing. In case the public comments and suggestions are not considered, the developer is required to provide written justification for refusal of comments and suggestions and to send that justification to the authors of the comments. This written justification (including relevant written comments and suggestions) with the protocol on the results of the public hearing and the EIA report should be submitted by the developer to administrative agency issuing the permit.
- (i) According to the General Administrative Code of Georgia the MEPNR provides relevant public information in response to a written public request. According to Article 53 of the General Administrative Code of Georgia a written individual legal-administrative act should include written arguments. Paragraph 5 of the same Article states that an administrative agency is not authorized to base its decision on the circumstances, facts, evidence, or arguments that have not been examined and analyzed during the administrative proceeding. Hence, argumentation of issued legal-administrative acts is based on professional and legal conclusions in the case of their necessity for identification of significant circumstances of the matter. The permit register is regularly updated.
- (j)) According to the national legislation, a modification of existing production technology that causes changes in exploitation conditions is subject to ecological expertise and, correspondingly, requires an environmental permit (Article 4,

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Deleted: According to the Administrative Code of Georgia (article 96), the administrative body, while making decision, should examine all significant circumstances relevant to the proposed activity and make decision on the basis of the assessment and summary of these circumstances

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Paragraph 2). All the above mentioned provisions should be followed while issuing the permit.
Regarding the review and renewal of the decision of an administrative agency, it should be considered that the national legislation does not directly define these terms. Chapter XIII of the General Administrative Code of Georgia provides a right to an interested party to file a complaint against the activity or legal-administrative act issued by an administrative agency. An administrative complaint shall be reviewed and resolved by the administrative agency that issued the legal-administrative act, if there is an official who issued the legal-administrative act or higher official who directs the subdivision. A complaint filed with regard to a legal-administrative act issued by the chief official of an administrative agency shall be reviewed and a decision thereon shall be made by a higher administrative agency. The same Chapter defines the procedures of review of administrative complaint and commencement of administrative proceeding. The administrative agency in the process of reviewing the administrative complaint is obliged to invite interested parties to participate, present his/her comments and attend oral hearings. Oral hearing is open.

(k) The draft law on Genetically Modified Organisms that reflects the principles of the Aarhus Convention has been developed.

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XVI. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 6

Describe any **obstacles encountered** in the implementation of any of the paragraphs of article 6.

Answer:

According to the national legislation the list of activities subject to EIA ecological expertise is less detailed and flexible than that in the Annex 1 of the Aarhus Convention. The list does not include a number of activities such as: opencast and deep mining of minerals, production and processing of paper, installations for the intensive rearing of poultry or pigs and food production including processing of milk, etc.

Public participation in public hearings on EIA is low. Generally, the public has an interest in the large projects. According to the Aarhus Centre monitoring data the low percentage of public participation in a number of cases can be explained by the inadequate notification of the public by the developer and lack of opportunity for the public to participate in decision-making process. Public participation was high when public participation and involvement procedures were appropriately implemented, as well as in the projects that had public interest.

The following reasons can also be mentioned:

- Poor resources for public participation (among them NGOs' resources). As a result, there is a need of concentration of resources in clearly defined direction.
- The low interest expressed by NGOs. There is a need to raise the interest of NGOs to participate in projects.
- Lack of organization of public at local level and weakness of organizations which express the public interest of communities and scanty populated areas.

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XVII. FURTHER INFORMATION ON THE PRACTICAL APPLICATION OF THE PROVISIONS OF ARTICLE 6

Provide further information on the practical application of the provisions on public

participation in decisions on specific activities in article 6, e.g. are there any statistics or other information available on public participation in decisions on specific activities or on decisions not to apply the provisions of this article to proposed activities serving national defence purposes.

Answer:

The Law of Georgia on Environmental Impact Permit defines the rules of exemption of an activity from EIA procedures. Article 11 of this law states that an activity can be exempt from EIA procedures if the State interests require initiation of an activity and a timely decision.

There are no statistical data on public participation in the decision-making process of the specific projects at the MEPNR. The Ministry keeps the statistics on the projects that, according to the national legislation, were exempted from EIA procedures and, accordingly, no public participation took place (in the reporting period – 13). The list of activities subject to EIA procedure for the years of 2008, 2009, 2010 is on the Aarhus Centre website. Public hearings were held for all these activities.

XVIII. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 6

Give relevant web site addresses, if available:

<http://www.moe.gov.ge> <http://aarhus.ge>

XIX. PRACTICAL AND/OR OTHER PROVISIONS MADE FOR THE PUBLIC TO PARTICIPATE DURING THE PREPARATION OF PLANS AND PROGRAMMES RELATING TO THE ENVIRONMENT PURSUANT TO ARTICLE 7

List the appropriate practical and/or other provisions made for the public to participate during the preparation of plans and programmes relating to the environment. Describe the transposition of the relevant definitions in article 2 and the non-discrimination requirement in article 3, paragraph 9.

Answer:

According to the national legislation, public participation is provided for only by the Law of Georgia on Environmental Impact Permit. As for the public participation during the preparation of other documents relating to the environment (e.g. NEAP, SoE) public hearings are conducted and the comments provided by the public are discussed and taken into account.

XX. OPPORTUNITIES FOR PUBLIC PARTICIPATION IN THE PREPARATION OF POLICIES RELATING TO THE ENVIRONMENT PROVIDED PURSUANT TO ARTICLE 7

Explain what opportunities there are for public participation in the preparation of policies relating to the environment.

Answer:

During the development of the Forest Policy, in order to insure public participation, the MEPNR conducted public hearings regularly. Accordingly public comments and suggestions were taken into account.

XXI. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 7

Describe any obstacles encountered in the implementation of article 7.

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In reality, only 15-20% of public participates in EIA consideration. Generally, public has an interest in the big projects (e.g. Baku-Tbilisi-Ceyhan pipeline). These low percentage of public participation can be explained by above-mentioned reasons; besides, following reasons can be mentioned:¶

<#>The poor resources for public participation (inter alia, NGOs' resources). In a result, there is a need of concentration of resources in clearly defined course¶

<#>The less of interest expressed from NGOs. There is a need to arise the interest of NGOs with big projects¶

<#>Weakness of organizations which express the public interest of communities and scarcely populated areas ¶

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Deleted: *By support of international organizations most of the projects has been implemented. Information on the ongoing and completed projects of the Ministry of Environment Protection and Natural Resources of Georgia is placed on the web-site of the Ministry.¶*

Under the initiative of the government of Georgia Medium Term Expenditure Framework has been introduced and functions. By introduction of the instrument the planning process itself became more significant.¶

Medium Term Action Plan of Government of Georgia for 2008 - 2011 has been developed according to which Medium Term Action Plans has been defined for all institutions of Georgia, including the Ministry of Environment Protection and

Answer:

According to the national legislation public participation is provided for by the Law of Georgia on Environmental Impact Permit that does not define public participation for preparation of policies and strategies.

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XXII. FURTHER INFORMATION ON THE PRACTICAL APPLICATION OF THE PROVISIONS OF ARTICLE 7

Provide further information on the practical application of the provisions on public participation in decisions on specific activities in article 7.

Answer: National Environmental Action Plan, Forest Policy, Report on the State of the Environment.

XXIII. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 7

Give relevant web site addresses, if available:

<http://www.moe.gov.ge>; <http://www.mof.ge>; <http://aarhus.ge>

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XXIV. EFFORTS MADE TO PROMOTE PUBLIC PARTICIPATION DURING THE PREPARATION OF REGULATIONS AND RULES THAT MAY HAVE A SIGNIFICANT EFFECT ON THE ENVIRONMENT PURSUANT TO ARTICLE 8

Describe what efforts are made to promote effective public participation during the preparation by public authorities of executive regulations and other generally applicable legally binding rules that may have a significant effect on the environment. To the extent appropriate, describe the transposition of the relevant definitions in article 2 and the non-discrimination requirement in article 3, paragraph 9.

Answer:

The Constitution of Georgia, the General Administrative Code of Georgia, the Law of Georgia on Environmental Protection and the Law of Georgia on Environmental Impact Permit insure the implementation of the rights stipulated by the Article 8 of the Convention. Public Administrative Proceeding is used also for promulgation of the normative documents by the executive authority (the General Administrative Code of Georgia, Chapter IX). The legislation guarantees public participation in this process. According to the Chapter IX of the General Administrative Code of Georgia public comments can be submitted within 20 days. Each administrative agency ensures availability of their draft normative acts through their official web sites. According to the General Administrative Code of Georgia in the process of preparation of draft normative acts publicity of the documents is ensured by the agency issuing the acts and respectively public comments and suggestions are submitted to that agency for further consideration.

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XXV. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 8

Describe any **obstacles encountered** in the implementation of article 8.

Answer:

During the preparation of particular projects both a high level of public participation and an

uninformed public are common. In cases of public interest they have an opportunity to participate in the development of draft laws. Often interest is shown from the public but not from the state agencies.

XXVI. FURTHER INFORMATION ON THE PRACTICAL APPLICATION OF THE PROVISIONS OF ARTICLE 8

Provide further information on the practical application of the provisions on public participation in the field covered by article 8.

Answer:

The national legislation does not regulate the given issue. However, administrative agencies often post information on their official websites and also cooperate with the NGO sector to disseminate information about projects. For instance, the Hunting Management Advisory Council has been created under the MEPNR, where NGOs and other interested persons participate as members. In addition, the following examples can be mentioned regarding draft laws: draft law on Eco Audit, draft law on GMOs and Law on the Establishment of Legal Entity of Public Law Forestry Agency.

In response to the request of the Aarhus Centre, the Parliament of Georgia provides information on the draft laws related to environmental protection and use of natural resources that are submitted to the Parliament. The draft laws and the tentative dates of their review in the Parliament are posted on the Aarhus Centre web site that allows the public to be aware of possible amendments and participate in the hearings according to the procedures defined by law. Existence of a clear legal mechanism for public participation in reviewing draft laws would make public involvement more effective.

XXVII. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 8

Give relevant web site addresses, if available:

<http://www.parliament.ge>; <http://moe.gov.ge>; <http://aarhus.ge>.

XXVIII. LEGISLATIVE, REGULATORY AND OTHER MEASURES IMPLEMENTING THE PROVISIONS ON ACCESS TO JUSTICE IN ARTICLE 9

Deleted: participatiron take place quite often (e.g. dissemination of the draft law by NGOs electronic network 2-3 days before its consideration).¶
In the development of draft laws wide range of public participation and full unawareness are occurred. In general, the state position can be explained as "passive waiting" – this opportunity will given to the public if the public express itself an interest and a will for participation. However, some of the public institutions do not express their enthusiasm in this regard

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List legislative, regulatory and other measures that implement the provisions on access to justice in article 9.

Explain how each paragraph of article 9 has been implemented. Describe the transposition of the relevant definitions in article 2 and the non-discrimination requirement in article 3, paragraph 9. Also, and in particular, describe:

- (a) With respect to **paragraph 1**, measures taken to ensure that:
- (i) Any person who considers that his or her request for information under article 4 has not been dealt with in accordance with the provisions of that article has access to a review procedure before a court of law or another independent and impartial body established by law;
- (ii) Where there is provision for such a review by a court of law, such a person also has access to an expeditious procedure established by law that is free of charge or inexpensive for reconsideration by a public authority or review by an independent and impartial body other than a court of law;
- (iii) Final decisions under this paragraph are binding on the public authority holding the information, and that reasons are stated in writing, at least where access to information is refused;
- (b) Measures taken to ensure that within the framework of national legislation, members of the public concerned meeting the criteria set out in **paragraph 2** have access to a review procedure before a court of law and/or another independent and impartial body established by law, to challenge the substantive and procedural legality of any decision, act or omission subject to the provisions of article 6;
- (c) With respect to **paragraph 3**, measures taken to ensure that where they meet the criteria, if any, laid down in national law, members of the public have access to administrative or judicial procedures to challenge acts and omissions by private persons and public authorities which contravene provisions of national law relating to the environment;
- (d) With respect to **paragraph 4**, measures taken to ensure that:
- (i) The procedures referred to in paragraphs 1, 2 and 3 provide adequate and effective remedies;
- (ii) Such procedures otherwise meet the requirements of this paragraph;
- (e) With respect to **paragraph 5**, measures taken to ensure that information is provided to the public on access to administrative and judicial review.

Answer:

- (a) Any person may claim against the public authority both to a higher public authority and after that to the court, if the violation of his/her right to access to information occurred. According to this Paragraph, the public authority is obliged to execute the final decision. Reasons for the refusal to access to the information should be stated in a required form.
- (b) The independence of reviewing an administrative complaint is ensured and regulated by Chapter XIII - the Administrative Proceeding in Regard to an Administrative Complaint of the General Administrative Code of Georgia.
- (c) The General Administrative Code of Georgia, the Civil Code of Practice of Georgia and the Criminal Code of Practice of Georgia regulate the requirements of Article 9.

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Paragraph 3. According to the national legislation any person has a right to file an application in an administrative agency or bring a case before a court if his/her rights were violated or limited and if by the decision or action of an administrative agency he/she incurred harm.

- (d) Measures regarding Paragraph 4 imply rights protected under the national legislation, in particular, they are defined by the Articles 29-31 of the Code of Administrative Proceedings of Georgia (it should be noted that, according to the Article 31, it a court can render a temporary ruling before the action is brought if existing circumstances may hinder realization of rights of the applicant or it will become significantly complicated) and also by Chapter XXIII of the Civil Code of Practice of Georgia.
- (e) Chapter IX of the General Administrative Code of Georgia regulates issues of public administrative proceeding, in particular, issuance of an administrative act through a public administrative proceeding, publishing of the notice regarding submission of documents for public access, list of documents to be presented for public access, procedures for presenting the public opinion, drafting and submission of an administrative act for public access, etc.

The General Administrative Code of Georgia describes the following procedures in details: submission of an administrative complain to an administrative agency, review and decision-making on the complaint, and filing a complaint in a court (if the rights of a citizen to access information and participate in a decision-making process were violated by an administrative agency).

Several governmental bodies, some NGOs and international organizations conduct active campaigns for public awareness in access to justice.

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XXIX. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 9

Describe any **obstacles encountered** in the implementation of any of the paragraphs of article 9.

Answer:

- Time limit for consideration of claims by the court for violations of rights to access to information, sometimes lasting more than 2 months (in previous years there was a case, when the final decision was issued after 18 months).
- The State Tax Privileges do not apply to legal entities (among them, the NGOs). In previous years there also was a case, when the NGO paid the tax equivalent to 1500\$. This amount of money is too large for Georgia.

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XXX. FURTHER INFORMATION ON THE PRACTICAL APPLICATION OF THE PROVISIONS OF ARTICLE 9

Provide further information on the practical application of the provisions on access to justice pursuant to article 9, e.g. **are there any statistics available on environmental justice and are there any assistance mechanisms to remove or reduce financial and other barriers to access to justice?**

Answer:

According to the General Administrative Code of Georgia a public agency shall designate a public servant responsible for providing public information (Article 36). If the public servant violates responsibility to provide the public information, he/she will face disciplinary liability in

accordance to the rules of Law of Georgia on Public Service.
The practice of applying the Convention by judges already exists (e.g. decision of a City Court on the complaint (N3/2647-07) of the Association Green Alternative, etc).
There are no statistical data on access to justice at the MEPNR. However, the Aarhus Centre collects the information about the cases in the field of the environment and court decisions and post them on its web site. The Aarhus Centre prepared the brochure “How to Apply to the Court to Protect our Environmental Rights” that was disseminated among the stakeholders. The brochure is available on its web site.
The Aarhus Center prepared information on the arrangement of the court system in Georgia and posted it on its web site. Contact information of courts in Georgia is accessible on the Aarhus Centre web site as well.

XXXI. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 9

Give relevant web site addresses, if available:

Council of Justice of Georgia: <http://www.coj.gov.ge/>; the Supreme Court of Georgia: <http://www.supremecourt.ge/>; General Courts of Georgia: <http://www.court.gov.ge/>
Georgia Young Lawyers’ Association: <http://www.gyla.ge/>; Association “Ask for Justice”: <http://www.alpe.ge/>; Union “42 Article of the Constitution”: <http://www.article42.ge/>; Aarhus Centre Georgia www.aarhus.ge

Deleted: <#>There is no environmental justice statistics. Regarding the right on access to various information, 38 cases of proceedings were initiated from 2000 to 2004; 2 cases of proceedings in violation of public participation in environmental decision-making are initiated at the court for today ¶
<#>There was a case when, in a result of the Aarhus Convention statement, the court abated the State Tax to the NGO from 4000 to 1000 lari (this is also a big amount) ¶

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Articles 10-22 are not for national implementation.

XXXII. GENERAL COMMENTS ON THE CONVENTION’S OBJECTIVES:

If appropriate, indicate how the implementation of the Convention contributes to the protection of the right of every person of present and future generations to live in an environment adequate to his or her health and well-being.

Answer:

Accession of Georgia to the Convention significantly increased the opportunity of citizens to control how their government protects their environment and to contribute to the protection of the environment. Public institutions respond to a pronounced growth of public activity. However, it is possible to increase public activity by taking appropriate measures. Participation in the specific activities increases the number and experience of persons who participate actively in the public development process.

Deleted: The rate of progress will be more evident in case of active and relevant policy. The

XXXIII. LEGISLATIVE, REGULATORY AND OTHER MEASURES IMPLEMENTING THE PROVISIONS ON GENETICALLY MODIFIED ORGANISMS PURSUANT TO ARTICLE 6bis AND ANNEX I bis

Concerning legislative, regulatory and other measures that implement the provisions on public participation in decisions on the deliberate release into the environment and placing on the market of genetically modified organisms in article 6 bis, describe:

(a) With respect to **paragraph 1** of article 6 bis and:

(i) **Paragraph 1** of annex I bis, arrangements in the Party’s regulatory framework to ensure effective information and public participation for decisions subject to the provisions of article 6 bis;

(ii) **Paragraph 2** of annex I bis, any exceptions provided for in the Party's regulatory framework to the public participation procedure laid down in annex I bis and the criteria for any such exception;

(iii) **Paragraph 3** of annex I bis, measures taken to make available to the public in an adequate, timely and effective manner a summary of the notification introduced to obtain an authorization for the deliberate release or placing on the market, as well as the assessment report where available;

(iv) **Paragraph 4** of annex I bis, measures taken to ensure that in no case the information listed in that paragraph is considered as confidential;

(v) **Paragraph 5** of annex I bis, measures taken to ensure the transparency of decision-making procedures and to provide access to the relevant procedural information to the public including, for example:

- a. The nature of possible decisions;
- b. The public authority responsible for making the decision;
- c. Public participation arrangements laid down pursuant to paragraph 1 of annex I bis;
- d. An indication of the public authority from which relevant information can be obtained;
- e. An indication of the public authority to which comments can be submitted and of the time schedule for the transmittal of comments;

(vi) **Paragraph 6** of annex I bis, measures taken to ensure that the arrangements introduced to implement paragraph 1 of annex I bis allow the public to submit, in any appropriate manner, any comments, information, analyses or opinions that it considers relevant to the proposed deliberate release or placing on the market;

(vii) **Paragraph 7** of annex I bis, measures taken to ensure that due account is taken of the outcome of public participation procedures organized pursuant to paragraph 1 of annex I bis;

Answer:

The draft law on the GMOs has been drafted in compliance with the principles of the Aarhus Convention including those of Annex I bis and the Article 6 bis.

XXXIV. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF THE PROVISIONS OF ARTICLE 6bis AND ANNEX I bis

Describe any **obstacles encountered** in the implementation of any of the paragraphs of article 6 bis and annex I bis.

Answer:

The lack of appropriate accredited testing laboratories and qualified staff; Scarcity of information about the methodology of risk assessment related to products and raw food materials containing GMOs. It is reasonable to establish a Coordination Council for improvement of the activities and better coordination of relevant agencies.

XXXV. FURTHER INFORMATION ON THE PRACTICAL APPLICATION OF THE PROVISIONS OF ARTICLE 6bis AND ANNEX I bis

Provide further information on the practical application of the provisions on public participation in decisions on the deliberate release into the environment and placing on the market of genetically modified organisms in article 6 bis, e.g. are there any statistics or other information available on public participation in such decisions or on decisions considered under paragraph 2 of annex I bis to be exceptions to the public participation procedures in that annex?

Answer:

The draft law on GMOs has been developed that is in compliance with the principles of the Aarhus Convention. At present, the Decree #2-231 (December 11, 2009) of the Minister of Agriculture of Georgia on the Approval of Additional Requirements for Food Labeling (Article 9 – labeling of Genetically Modified Food Products) defines *only the obligation to inform the public if the food contains genetically modified components (putting appropriate information on a label in accordance with defined rules) that enables the public to make decision on the purchase of food products.*

The non-governmental sector is involved in awareness raising of the public. The National Centre for Monitoring and Scientific Research of Manufacturing of GMO Products was established. Representatives of the NGO sector participate in conferences and meetings related to the given issues.

**XXXVI. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF
ARTICLE 6bis**

Give relevant website addresses, if available, including website addresses for registers of decisions and releases related to genetically modified organisms:

Informational materials about GMOs and products containing GMOs are periodically published on the web site of the Ministry of Agriculture of Georgia www.moa.ge and on the web site of Food Safety, Veterinary and Plant Protection Service www.fvp.ge.

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By support of international organizations most of the projects has been implemented. Information on the ongoing and completed projects of the Ministry of Environment Protection and Natural Resources of Georgia is placed on the web-site of the Ministry. Under the initiative of the government of Georgia Medium Term Expenditure Framework has been introduced and functions. By introduction of the instrument the planning process itself became more significant.

Medium Term Action Plan of Government of Georgia for 2008 -2011 has been developed according to which Medium Term Action Plans has been defined for all institutions of Georgia, including the Ministry of Environment Protection and Natural Resources of Georgia. On the basis of the Plan priorities for the years 2008-2011 for the Ministry of Environment Protection and Natural Resources of Georgia have been identified.