



**Economic and Social
Council**

Distr.
GENERAL

ECE/MP.PP/IR/2008/GEO
14 May 2008

Original: ENGLISH

ECONOMIC COMMISSION FOR EUROPE

**MEETING OF THE PARTIES TO THE CONVENTION ON
ACCESS TO INFORMATION, PUBLIC PARTICIPATION
IN DECISION-MAKING AND ACCESS TO JUSTICE
IN ENVIRONMENTAL MATTERS**

Third meeting
Riga, 11–13 June 2008
Item 6 (a) of the provisional agenda
Procedures and mechanisms facilitating
the implementation of the Convention:
Reports on implementation

IMPLEMENTATION REPORT SUBMITTED BY GEORGIA¹

Article 10, paragraph 2, of the Convention requires the Parties, at their meetings, to keep under continuous review the implementation of the Convention on the basis of regular reporting by the Parties. Through decision I/8, the Meeting of the Parties established a reporting mechanism whereby each Party is requested to submit a report to each meeting of the Parties on the legislative, regulatory and other measures taken to implement the Convention, and their practical implementation, according to a reporting format annexed to the decision. For each meeting, the secretariat is requested to prepare a synthesis report summarizing the progress made and identifying any significant trends, challenges and solutions. The reporting mechanism was further developed through decision II/10, which addressed, inter alia, the issue of how to prepare the second and subsequent reports.

¹ The present document was submitted the above date due to resources constraints.

I. PROCESS BY WHICH THE REPORT HAS BEEN PREPARED

1. The first draft report was delivered to the all eight Ministries, the Committee of Environmental Protection and Natural Resources of the Parliament of Georgia, the Ombudsman, the Supreme Court and the Constitutional Court of Georgia on 2 August 2007. This draft report was also disseminated through the CENN (Caucasus Environmental NGOs Network) electronic network for public comment. When the comments have been received and considered in October, the second draft report was prepared and disseminated again through CENN. The public hearing was held on 28 November 2007. The report was completed and sent to the secretariat on 17 December 2007. The final version of the report is available at the Aarhus Centre Georgia website in both Georgian and English.

II. PARTICULAR CIRCUMSTANCES FOR UNDERSTANDING THE REPORT

2. The Convention applies directly (according to the Law of Georgia on International Agreements (article 6, paragraph 2)), and international agreements have the advantage over the national legislation.
3. Financial constraints are significant obstacles both for collection of the information and its elaboration, edition and dissemination.
4. Necessary procedures for implementation the Convention have been developed at the minimum level because of institutional difficulties of authority and a poor public awareness.

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

Article 3, paragraph 1

5. With respect to significant legislative changes in non-environmental (sectoral) legislation, for the environment that may limit public participation in certain cases, such legislative changes have not been implemented in Georgia.
6. The person responsible for issuing information from the Ministry of Environment Protection and Natural Resources of Georgia (MoE) was assigned by the decree of the Minister. Also, in order to assist MoE in implementation of the Convention in Georgia, the “Aarhus Centre” was established.

Article 3, paragraph 2

7. Current Georgian Legislation is in compliance with the most of the requirements of the Convention (see below). Moreover, the Convention applies directly (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 stipulates 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 the healthy environment and to obtain complete, impartial and timely information on

the state of his/her working and living surroundings. To inform the public, the MoE of Georgia submits annually the national report on the state of environment to the President of Georgia. Promulgation of the national report is the principle of its accessibility for the public. In accordance with article 15 of this Law, “for protection and sustainable development of the environment, an environmental protection planning system (Sustainable Development Strategy) is under development, which itself comprises a long-term strategic plan. It is necessary to ensure the public participation in the development of the project of Sustainable Development Strategy”.

8. Public administrative proceedings are set up by the Ninth Chapter of the General Administrative Code of Georgia. More precisely, these issues are: issuing the individual administrative legal act by using public administrative proceedings and publishing notes containing lists of documents to be submitted to the public introduction, guidelines for presentation of self opinion, preparation of project for individual administrative-legal acts and presenting them to the public, etc.

9. The General Administrative Code of Georgia literally implies: the procedures of submission of administrative appeal to administrative court; the procedures of considerations and decision-making; and the procedures for citizens to appeal to the court in case of violation of their rights in the field of access to information, or participation in decision-making processes (Georgian Administrative Procedural Code).

10. Regarding the institutional and budgetary arrangements for capacity-building, the Public Relations and Media Service represents the structural unit of MoE. It employs four full-time staff.

11. With the purpose of environmental control enforcement in the fields of implementation of environmental legislation and of implementation of environmental requirements, in 2005 the Georgian Government created a control enforcement body in the MoE, known as the “Inspectorate for Environment Protection” (Inspectorate). A “Hot Line” was established in the Inspectorate. It functions also in the regions of Georgia. The purpose of this service is to establish direct connection between public and the Inspectorate and to enable the Inspectorate to receive information on any legislative violations in a timely and efficient manner; and also to assist by helping the Inspectorate to react timely on violations of environmental legislation.

12. Regarding regulations on capacity building for public authorities performing functions relating to the environment, on the one hand a number of environmental laws contain norms which specify the enforcing manner for the applicable executive authorities. More precisely, according to the Georgian Law on Public Health, Article 23:

(a) The Ministry of Labour, Health and Social Affairs of Georgia, following the recommendations of World Health Organization, defines the norms and technical regulations of safe water quality for human health;

(b) The National Centre for Disease and Public Health Control of the above-mentioned Ministry has a division of Environmental Health, which in turn participates in the elaboration of norms and standards of environmental quality of water, atmospheric air, soil, noise, vibration, electromagnetic radiation to ensure a safe environment for human health;

(c) The Ministry of Agriculture carries out the control of compliance of drinking water safety and quality parameters with established legislative requirements and, drinking water, selected laboratory testing;

(d) The MoE fulfils the the following roles:

(i) Elaborates and carries out the joint policy for State Management of water resources and ensures sustainable development and principles of river basin management;

(ii) Protects water resources from negative impacts that could affect public health, worsen the water supply conditions, or result in qualitative changes;

(iii) Organizes the State system for water-use licences;

(iv) Plans and conducts arrangements to limit water usage, its termination or restriction in special cases;

(e) According to the Georgian Law on Public Health, Chapter VI, Article 23, paragraph 4, with regard to ensure a safe water for human health, internal control and audit of water quality, is carried out by independent accredited laboratories.

13. On the other hand, based on the State budget and donor financial support, different activities are continuously conducted which strengthen the technical capabilities of these institutions. The one of the examples of such activities is the funded project “Aarhus Centre Georgia”, financed by the Organisation for Security and Co-operation in Europe (OSCE) Mission to Georgia. The aim of this Centre is to support the MoE in the full implementation of duties and responsibilities under the Convention.

14. It should be noted that the elaboration of the mechanism of integrated basin management is one of the obligations of the Government.

15. The reorganization of the Forest Department is in process. This will contribute and enable the implementation of duties and responsibilities of the Government under the Convention in the field of forest policy. The Forest Policy Document is in the process of elaboration.

16. Specific training curricula for judges concerning environmental protection and issues addressed in the Convention do not exist. With the support of the OSCE Mission to Georgia and “Aarhus Centre Georgia”, such training is planned for 2008. However, a Supreme School of Justice does exist in Georgia. This institution undertakes organization of trainings for judges and is open for environmental educational programmes, especially in the field of the Convention. But the School does not have its own resources, such as local experts, and depends on foreign experts.

Article 3, paragraph 3

17. In accordance with the Law of Georgia on the Protection of Environment, “a citizen is entitled to receive environmental and ecological education to rise his/her environmental awareness. The entire system of environmental education is established 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”.

18. The MoE has developed The “State Programme for Public Ecological Education”, approved by Presidential Decree in 2002.
19. No type of memorandum exists between the Environment and Education Ministries. However, the MoE and the Ministry of Education and Sciences actively cooperate in the implementation of the “Strategy for Education for Sustainable Development”.
20. In 2004, the Government approved the “National Goals for General Education”, which especially emphasize the role of environmental education; based on this document in May 2005, the elaboration of the General National Curriculum was completed, in which the environmental education is one of priorities. The concept of sustainable development is the basis for subjective programmes of natural and social sciences. This is clearly indicated on initial and base step integrated course books and programmes: natural science (grades I-VI) and social sciences (grades V-VII). Among the basic programmes on the awareness raising of environmental and other applicable legal subjects are: Biology, Geography, Chemistry, Civil Education, Economics and State and Citizen. Also, on average, by the time of graduation twelfth-grade students have the opportunity to study “Geography of Global Problems” from the blocks of Natural and Social Sciences. This will be the summary course in the study of environmental issues. In the 2006-2007 study years, all secondary schools will do step by step work on the implementation of above-mentioned National Curriculum.
21. From 2006, one more competition was added to the Ministry’s national and international Olympiad, grouping integrated projects for sustainable development. A partner in the competition is the MoE. It should be noted that in the years of 2006 and 2007, 610 school groups from all around Georgia (1,962 students and 207 teachers) participated in this programme. As a result, interest in the issues of sustainable development has been significantly increased. More attention was given to this issue after the conference, “Education for Sustainable Development”, held in Lithuania in 2005.
22. In 2007, the Center for Teachers Professional Development elaborated the professional standards project for teachers, which is now a subject for discussion at schools professional societies. After approval, this document will become a manual for teacher certification. According to the project, all teachers, starting from primary school grades and ending with upper level teachers of natural and social sciences, will be required to demonstrate a high efficiency in knowledge of environmental issues, as well as to have professional pedagogical skills in the development of environmental sensitivity attitude among their students.
23. Since September 2007, the National Curriculum and Assessment Centre has started elaboration of preschool educational standards, one of the principal foundations for the establishment of environmentally positive attitudes in preschool children.
24. As a result of the 2003-2005 reforms in the higher education system, the universities (State universities among them) are fully independent institutions. Currently, the environmental and research programmes area is being rapidly developed in the countries leading universities. For example:

25. Since 2007, the Ivane Javakhishvili Tbilisi State University (TSU) has launched the Masters programmes in Sustainable Environmental Development, Ecology and Environmental Control, Regional Geography and Landscape Planning, Taxonomic Research, and Biodiversity Conservation;
26. Since 1995, the UNESCO² Department of Environmental Education has been successfully working at Georgian Technical University;
27. Since 2006, the direction of Live Nature Faculty of I. Chavchavadze University has been following the directions of education for sustainable development.
28. Different campaigns are being conducted to raise awareness of local populations and students in the field of protection of unique environmental sites, their preservation and conservation of natural ecosystems. The “Concept for Ecological-Educational Activities on Protected Areas” and the “Instructions for Ecological-Educational Activities on Protected Areas” have been elaborated. A field guide for flora and fauna and guide for protected areas has been published. Key areas of several national parks were provided with interpretation boots, road posters, pictures and texts; Georgian-English map-collages for tourist and various magazines, leaflets and flyers were published; a biodiversity photograph exhibition of one region of Georgia was conducted; promotion videos about protected areas have been aired; four brief Georgian-English documentary films were shot; seminars for local teachers and schoolchildren in different natural reserves were conducted; and on the initiative of the Department of Protected Areas and with the support of “Aarhus Centre Georgia”, an eco conference was organized with the motto, “Protect Natural Diversity of Georgia”. The winners of the competition visited one of the National Parks in Georgia.
29. For the better promotion and information dissemination on the functioning of the Department of Protected Areas, the special website was developed (www.dpa.gov.ge). This website is functioning and will be constantly updated.
30. The Inspectorate for Environment Protection designed a TV advertisement, contributing to the raising of public awareness and participation in environmental matters, and in 2005, a special seminar was held for the employees of the Inspectorate. Within the framework of this workshop, participants were trained as trainers and later they themselves conducted trainings for the other employees of all territorial bodies of the Inspectorate. In 2007, in the Inspectorate, with the help of the OECD and support from the Governments of Norway and the Netherlands, in the framework of a current project (involving the creation of the basis of a system ensuring enforcement of requirements of the Environmental Legislation in Georgia) prepared and published the booklet “Carry out better your environmental rights and duties”. This booklet is targeted broadly to society, physical or legal entities, and bodies carrying out activities on Georgian territory. This booklet enables them to receive information on the requirements and procedures stated by legislation, as well as on methods of appeal against administrative sanction of inspectorate.

² The United Nations Economic, Scientific and Cultural Organization.

31. The Waste and Chemical Substances Management Division has arranged awareness-raising meetings with local population.

32. To raise public awareness, in 2007 the Climate Change Division arranged a seminar on climate change issues; created a new educational programme for schools and specified faculties of institutes; prepared a strategy on climate change problems; prepared and published a textbook for adaptation and vulnerability issues in Georgian; prepared and published a manual on the methodologies for evaluation of vulnerability of the healthcare sector in Georgian; conducted lectures for decision makers periodically; and together with one NGO, conducted a number of lectures on climate change issues in several secondary schools. A drawing exhibition on the subject of climate change was organized after lectures for children under the age of 12. It is planned to issue a 2008 year calendar with these drawings. Other activities included: the new version for one of the children's tales illustrating climate-change problems; a project for a cartoon film on this scenario, under the process of design; articles on the issue of climate change to be systematically published in newspapers; several TV programmes and a live radio programme; and workshops in Tbilisi and selected regions.

33. MoE employees participate in local and international trainings and other educational programmes, which contribute to the improvement of their qualifications as applicable to existing requirements and standards. Different trainings connected to environmental issues are held for MoE employees and relevant State institutions as well as business and NGO sector representatives.

34. Special seminars and trainings aimed at journalists are conducted mainly in the framework of those projects, carried out in MoE with the funding of international organizations. In 2006, only several city seminars/meetings for mass media representatives and journalists were conducted.

35. Different media campaigns are carried out, which are the most effective tool for information sharing and awareness-raising; however, due to the lack of finances, these campaigns are quite fragmented.

36. Environmental non-governmental organizations (NGOs) participate in environmental awareness raising in the following ways:

(a) The NGO sector is actively participating in the component of awareness raising through implementation of different projects or trainings;

(b) The NGO sector is provided with technical support, grants and credits from international organizations;

(c) Even though the service offered by the Project "Aarhus Centre Georgia" cannot be considered as a direct service provided by the Government, it is worth noting that the project's conference room and conference equipment are free and accessible to any activity connected with environmental issues (e.g. seminars, conferences, trainings, workshops and meetings). The Centre also offers a free environmental library, and free access to the Internet, and also a variety of other services. Not only NGOs or governmental institutions, but any interested parties or persons can use the services offered by Aarhus Centre Georgia.

Article 3, paragraph 4

37. In accordance with the Law of Georgia on the Protection of the Environment, a citizen of Georgia is entitled to join environmental public organizations. The environmental NGOs are legal entities and have the same rights as other legal entities (inter alia, governmental legal entities).

38. The registration procedures for NGOs in Georgia are pretty simple. They are registered by an authorized body of the Ministry of Finance of Georgia, namely the Tax Department of Income Office, which, under Article 28, paragraph 9, of the Georgian Civil Code is obliged to register a non-commercial legal entity within three days after the submission of application or within the same time to send a motivated refusal to it. Article 29 of the Georgian Civil Code establishes the basic requirements for the application form. It must include:

- (a) The name of authority to which the application shall be submitted, and the date of the submission;
- (b) The name of the person (persons) who submits the application;
- (c) The name of the non-commercial legal entity;
- (d) Information about the domicile of the non-commercial legal entity;
- (e) The objectives or the activity of the non-commercial legal entity;
- (f) Information about the founder of the non-commercial legal entity;
- (g) Information about the governing body of the non-commercial legal entity;
- (h) Information about the rules of establishment (election) and the warrant period of the governing body (governing person) of the non-commercial legal entity;
- (i) Information about the governing person of the non-commercial legal entity;
- (j) Information about the rules and procedures of decision-making by the governing body (governing person) of the non-commercial legal entity;
- (k) Information about the representative of the non-commercial legal entity, rules of its election and warrant period;
- (l) Information about the authorized person for representation;
- (m) The rules of acceptance as a member, exclusion and leaving from membership of the non-commercial legal entity, if it is a non-commercial membership based legal entity;
- (n) The name of the reorganization and liquidation decision-making body and rules and procedures of decision-making, if these procedures differ from regulations described in subparagraph (j);
- (o) The list and amount of the attached files to the registration application form;
- (p) The name and domicile of the notary who confirmed the charter of the non-commercial legal entity.

39. The registration application of a non-commercial legal entity must be signed by founders of the non-commercial legal entity and the authorized person (persons) for representation; the registration application must be confirmed by the signature and official stamp of the notary.

40. The registration application must be accompanied by the following attachments:

- (a) The notarial act of the non-commercial legal entity foundation;

(b) In the case of registration of the national sport federations, professional unions and the governing organizations based on collective property rights, and charters confirmed by the notary;

(c) The official document confirming the payment of the registration fee;

(d) A sample of the signature which is used by the governing and representative bodies in official relations;

(e) A note specifying the domicile of the non-commercial legal entity, with the notary confirmed consent of the owner of the domicile or with a relevant agreement about legal use of the domicile.

41. According to the Georgian Law on Registration Fees, the fee for registration of non-commercial legal entity is 60 GEL.

42. A legal norm, which prohibits involvement of NGOs in the environmental decision-making institutions does not exist. NGOs do participate and have a consultative status in the legislative and executive governmental meetings and committee hearings (otherwise the session is declared as closed deriving from the specifics and legal cases, but deriving from environmental specifics and legislation, this practically is not happening). According to the Georgian Parliament Regulations (art. 153, para. 8), the possibility for public organizations to attend committee sessions during the consideration of draft laws is provided.

43. In 2007, the Inspectorate elaborated the “2007-2009 Strategy of the Inspectorate for Environment Protection”. The document written in Georgian and Russian, clearly defines the strategy of communication with public, more precisely: establishing connections with NGOs and media; accessibility of information to NGOs, the mass media and the public about inspectorate and regulation issues regarding environmental activities, except responding on the incoming applications in the inspectorate, the active voluntarily information dissemination through different ways, for example though press releases. The inspectorate wishes to involve the public in activities connected disclosure of violations and into the activities contributing to follow legal regulations. Generally, the Inspectorate will consider the requirements of the Convention and will act according to them.

44. The draft of the above-mentioned document was disseminated through the electronic newsletter of CENN, the suggestions and comments were received, and a meeting with a number of NGOs was conducted.

45. Because local-level and grass-roots (community) organizations also belong to the NGO sector, the above-mentioned norms relate to them too.

46. Deriving from Georgian legislation, the Government does not provide financial support to environmental NGOs.

Article 3, paragraph 7

47. Georgia always supports public participation in international global and regional environmental decision-making processes (e.g. the World Summit on Sustainable Development

(WSSD), the Environment for Europe ministerial conferences, Environment and Health) according to the principles of the Convention.

48. A practice of including NGO members in delegations representing the State in international environmental negotiations exists. The representatives of NGOs have the consultative as well as State delegation member status during international negotiations connected to environmental matters.

49. Regarding implementation of the Guidelines on Public Participation in International Forums, this is demonstrated by the regional and international organizations working in the country, with such activities offered as financial support to the NGO sector and media representatives to enable them to participate in international activities, either with the status of governmental delegation members or independently. A practical example of this was the fifth Pan-European Environment for Europe Ministerial Conference (Kyiv, 21-23 May 2003), where the REC³ Caucasus provided financial support to NGOs and media representatives.

50. The Guidelines on Public Participation in International Forums were translated in Georgian and disseminated to the applicable organizations in the country through an electronic newsletter.

51. There has not yet been any internal consultation with regard to the implementation of the Guidelines between the officials dealing with the Convention and officials involved in other international forums on matters relating to the environment.

Article 3, paragraph 8

52. The principles of the 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 the Article 42 of the Constitution of Georgia, each person is entitled to appeal to the court for protection of his/her human rights (inter alia, the rights granted by the Convention) and liberty.

53. Article 3, paragraph 8, of the Convention is the self-executive norm, which is in force on the territory of Georgia and bears specific rights and duties. Deriving from the aforementioned, under the Convention the applicable activity will not cause criminal justice, civil or administrative responsibility. Hereby, we would like to mention that such a case has not occurred yet in practice.

54. No cases of NGOs being ordered to pay damages in connection with their public interest, environmental protection activities or litigation have been registered in practice so far.

³ Regional Environment Center.

IV. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 3

55. Notwithstanding the existence of current Georgian legislation, there are many practical obstacles to implementation. It is worth noting that, according to the decree of Georgian Government of 22 April 2005, the State Commission for Sustainable Development of Georgia was established. According to this decree, the duty of the Secretariat of the Commission is assigned to the MOE. A National Report on the State of Environment is being elaborated annually according to national legislation; the 2005 report has been placed on the “Aarhus Centre” website and is accessible for everyone. A second National Environmental Action Plan (NEAP) is in the process of elaboration. Experts’ reports on priority activities have been prepared and will be submitted to the Government this year. There were some cases where decisions regarding large-scale projects were made with violations of existing legislation (this was caused either due to lack of knowledge in environmental legislation from the part of some governmental bodies and investors, or because of lobbying for special interests) in previous years. Environmental organizations made vocal protest against above-mentioned events and the situation has been improved a little after this; though the actions from the Government regarding this case is not yet sufficient.

56. The subjects considered in “State Programme for Environmental Education of Population” are clearly defined in the range of study programmes. The “National Goals Document” has been elaborated, the considerable part of which pertains to environmental education. The system of school environmental education is currently in order.

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

57. No coordination group for implementation of a State programme for public ecological education is currently functioning.

58. “National Objectives of General Education” was approved in 2004, in which the role of environmental education was emphasized. On the basis of this document, elaboration of national study plans of general education was completed in May 2005, in which environmental education is considered as a priority. These activities are being implemented on the basis of above-mentioned programme. This process became more active after the Conference of the Ministers of Environment and Health (Lithuania, 2005).

VI. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 3

59. www.moe.gov.ge, www.aarhus.dsl.ge, www.ganatileba.org,
www.mes.gov.ge/index.php?lang_id=GEO&sec_id=280#,
www.mes.gov.ge/index.php?lang_id=GEO&sec_id=600&info_id=1410,
www.mes.gov.ge/index.php?lang_id=GEO&sec_id=600&info_id=1045,
www.science.tsu.ge/mastprograms.asp, www.unesco.ucesm.gtu.ge/, www.iliauni.edu.ge/,
www.dpa.gov.ge.

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

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

61. Everyone is entitled to request the information (General Administrative Code of Georgia, Art. 37).

62. Information about protection of the environment, as well as data on the dangers that can threaten human life and health, should not be confidential (General Administrative Code of Georgia, Art. 42, a).

63. When the administrative body decides on the confidentiality of the information, disclosure of this information lies in the responsibility of the same administrative body. But in the case that the administrative body provides for information secrecy due to the requirement of the applicant, the Administrative Body is allowed to provide disclosure of the information only due to the applicant's requirement.

64. According to the General Administrative Code of Georgia, Article 30, the decision designating public information to be classified may be rendered if the law makes an express requirement to protect such information from disclosure, establishes concrete criteria for such protection, and provides an exhaustive list of classified information. The General Administrative Code of Georgia, Article 31, should also be taken into consideration as it notes that the term for keeping professional and commercial secrecy is open-ended, excluding in cases prescribed by the law. Commercial secrecy must be disclosed if it no longer contains any secret value. Personal secrecy is preserved during the lifetime of a person, excluding the cases subscribed by the law.

65. Article 33 of the General Administrative Code of Georgia regulates the rule of publishing the secret information; in particular, after classified information is declassified, any part of classified public information or protocol of the closed session of a corporate public agency that can be separated on reasonable grounds must be publicized. In such cases, the name of the

person who provided the disclosure of the information, the basis of disclosure and the period of secrecy will also be publicised.

Article 4, paragraph 1

66. In accordance with the General Administrative Code of Georgia (Art. 37, para. 1) any person is entitled to obtain information in the original. If there is a risk of damage to the document, the public authority is obliged to make available under supervision or to provide a person with a properly confirmed copy of the information.

67. According to General Administrative Code of Georgia, Article 49, on 10 December each year MoE reports to the Parliament and the President of Georgia regarding the general situation vis-à-vis the provision of the public information, including where the statistics and provided information is given.

68. The MoE (and its several sub-structures), as well as different State institutions, have a person responsible for providing environmental information (General Administrative Code of Georgia, Art. 36).

Article 4, paragraph 1 (a)

69. In accordance with the General Administrative Code of Georgia (Art. 37, para. 2) a person is entitled to access to information without having to state an interest.

70. According to the General Administrative Code of Georgia, Article 37, the administrative body provides the information, based on the application, where the identification details of an applicant are indicated. For this reason, there is no difficulty in identifying the applicant.

Article 4, paragraph 1 (b)

71. In accordance with the General Administrative Code of Georgia (Art. 37, para. 2), any person is entitled to choose the form of obtaining the information if the public authority holds this information in several forms.

Article 4, paragraph 2

72. Stricter time-limits are established in Georgia for providing the information. In accordance with the General Administrative Code of Georgia (art. 40, para. 2), the information should be issued immediately and at the latest within 10 working days. Regarding the General Rule, the public authority is obliged to make the information available to the applicant or allow him/her to get acquainted with the already existing information. The public authority is not obliged to compose any kind of information for the public request (see also a review of implementation of Art. 5). Such an approach is in compliance with the principles of the Convention.

73. According to the General Administrative Code of Georgia, Article 40, the information must be provided immediately. If an administrative body cannot provide the information immediately, it has 10 days if responding to the information request requires:

- (a) The acquisition or processing of information from a subdivision that operates in another area, or from another public agency;
- (b) The acquisition and processing of separate and large documents are not interrelated;
- (c) Consultation with its subdivision that operates in another area, or with another public agency, if those are interested in the decision-making on the matter.

In such cases, an administrative body must inform the applicant that it needs a 10-day period to provide the information.

74. According to General Administrative Code of Georgia, Article 41, an applicant must be informed immediately regarding a refusal to provide information. After this, within a period of three days, the applicant must be provided with a letter of explanation, in which the institution which refused must be indicated. Also, the guidance and right of appeal against this refusal must be explained in the letter.

75. According to the General Administrative Code of Georgia, Article 36, the administrative body is obliged to identify the public servant responsible for providing the public information. If the responsible person does not implement the assigned duties and violates the law, or does not provide the public information, this person will be charged with disciplinary measures according to the Georgian Law on Public Service.

Article 4, paragraphs 3 and 4

76. In accordance with the General Administrative Code of Georgia (Art. 27), there are four types of confidential information in Georgia: the State, the commercial, professional and the personnel. Clear procedures are established for granting a confidential status to 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, granting the confidential status to the information and its time-limit (commercial confidential information has no time-limit). Decisions, made regarding the granting of confidential status to the information or rejection of the confidentiality of information, are included in the public register (i.e. a open for the public; see Art. 31). There is a list of information that should not be confidential (inter alia, information on the environment and data on the dangers, which can threat also the human life and health; see Art. 42).

77. The whole body of information that makes it possible to identify a natural person is his/her personnel information, and a person resolves himself/herself the question about the transparency of this information (Art. 27, 27¹). The confidentiality of the public officers who prepare the document is protected as well, except for the governmental-political officials (the executive privilege, Art. 29); Article 4, paragraph 3, subparagraph (b), and paragraph 4, subparagraphs (a), (g), and (h) of the Convention are not valid in Georgia.

78. The Convention applies directly. Public authorities are obliged to meet its requirements.

Article 4, paragraph 3 (b)

79. According to national legislation, public authorities are not obliged to clarify with the applicant any questions which appear unreasonable or too general, but it must be mentioned that in such cases public authorities are obliged to reply to the applicant with a relevant justification.

Article 4, paragraph 4 (a)

80. According to the General Administrative Code of Georgia, Article 29, the names of the public servants participating in decision-making processes are protected against disclosure under “executive privilege”. So their identification is protected from disclosure.

81. According to the General Administrative Code of Georgia, Article 96, during an administrative proceeding an administrative agency is obliged to investigate all important case-related circumstances and to make a decision through the evaluation and comparison of those circumstances”. Reasoning from this, administrative agency is obliged to utilize the confidential information if its investigation is necessary for decision making.

Article 4, paragraph 4 (d)

82. The General Administrative Code of Georgia, Article 27, determines the following:

(a) Personal data to be considered as personal secrecy is determined by the person whose identification is allowed by this information excluding the cases prescribed by law;

(b) Commercial secrecy is the information on a commercial plan, formula, process or other kind of information used for production or reproduction of goods or used for providing services, or information with innovation and significant outcome of technical venture or the kind of information disclosure of which may impose threats to the competitiveness of the individual;

(c) Professional secrecy is the information on other person’s commercial or personal secrecy that was disclosed to another person during fulfilling the professional duties. Professional secrecy can not be the information that does not embody commercial or personal secrecy of another person.

(d) State secrecy information is determined under the National Legislation. The State secrecy information is protected under different normative acts and the laws listed in the given question above. Secret information is also protected under the specific norms.

83. The National Legislation of Georgia does not prescribe an obligation to justify the existence of a potential adverse effect that a public release of information might have on a legitimate economic interest.

Article 4, paragraph 4 (f)

84. According to the General Administrative Code of Georgia, Article 27, “Personal data” means the public information that allows identification of a person.

85. A legal person (entity) cannot have personal data protection. Based on the National Legislation, personal information allows identification of a person, while the personal data of a legal person (entity) is accessible to the public according to the Legislation of Georgia.

Article 4, paragraph 5

86. In accordance with the Administrative Code of Georgia (Art. 80), public authorities have stricter requirements. When receiving the application for the request of information, a public authority is obliged to identify itself or another public authority having the information requested within five working days and to transfer the request to that public authority. The application, with explanation, should be given back to the applicant within five working days after the date of its application if the responsible institution is not found out.

87. According to the General Administrative Code of Georgia, a public authority must identify the relevant public agency responsible for responding to a written request for public information within five working days and to send it to the agency. In the case that such a responsible agency could not be identified, the request must be sent back to the claimant, with written justification no later than five days after its submission.

Article 4, paragraph 6

88. In accordance with the Administrative Code of Georgia (Art. 33), a reasonably separated reminder of the information should be disclosed after the exemption of the confidential information from the document. When issuing such a document, the following information should be noted:

- (a) the confidentiality of the separate part of the document;
- (b) the person who granted the confidential status;
- (c) a reason of confidentiality; and
- (d) its time-limit.

Article 4, paragraph 7

89. In accordance with the Administrative Code of Georgia (Art. 41), stricter requirements are established regarding the refusal than are envisaged by the Convention. The applicant should be informed regarding the refusal immediately. Following this, a written explanation should be given to the applicant within three days in which the information about the institution consulted while making the decision regarding the refusal should be noted. The right and rule to claim against this decision should be noted there as well.

Article 4, paragraph 8

90. In accordance with the Administrative Code of Georgia (Art. 99), no charge should be established for information supply, except for making copies or mailing the information. According to the Convention, the applicant should be informed in advance regarding the level of charges that may be levied. This is a new requirement, public authorities should pay attention to it.

91. The Georgian Law on Fees for Copying of Public Information states the rule of payment and the amount of the fee for making copies of public information as defined by the Law of Georgia and the General Administrative Code of Georgia. A public agency shall provide access to the copy of public information. No fees shall be charged for distributing public information. This does not refer to the fee of an information service, for which the fee is determined by the relevant legislative act.

92. It is prohibited to charge any fee for information provision, except the necessary fees for service. According to the Law on Fees for Copying of Public Information physical or legal entities interested in receiving copies of public information are obligated to pay a special fee for copying in cash to the cash desk of the MoE. The fees are the following:

- (a) Copy of A4 and A5 sheet of paper – 1 page – 0.05 GEL;
- (b) Printout by laser printer – 1 page – 0.10 GEL;
- (c) Burning on compact disk – 1 CD – 2.65 GEL;
- (d) Recording information on diskette – 1 diskette – 1.30 GEL;
- (e) Recording the information on the videocassette provided by claimant – 1 hour – 2.75 GEL;
- (f) Recording the information on the audiocassette provided by claimant - 1 hour – 0.50 GEL.

93. According to the Georgian Law on Fees for Copying of Public Information, unlike the physical or legal entities, the payment of the fees for copying of public information is provided by the administrative body in the case the amount of fees for Copying of Public Information is more than 50 GEL.

94. According to Article 7 of Georgian Law on Fees for Copying of Public Information, fees for copying public information are not charged for the following:

- (a) Recording information on a diskette or on CD provided by the applicant;
- (b) Sending public information via e-mail;
- (c) Physical persons making the copies of their private information stored at the public agency.

95. At this stage, it is difficult to categorize the applicants and to decide who should be charged with differentiated fees. It is also difficult to identify the objectives that determine the reason whether the preference tariff should be paid or be free of charge (i.e. whether the statistical data can show that the tariffs are obstacles for interested persons to receive public information). Recently, there has been no necessity to differentiate fees.

96. According to the Georgian Law on Fees for Copying of Public Information, a fee for copying of public information is a kind of mandatory payment to the budget paid by a physical or legal person interested to get public information (and the administrative body, in particular cases; see the paragraph above). Thus, this rule prescribes fees for copying service provided by State agencies only. Any normative act that envisages conducting researches and regulation of those taxes does not exist from the standpoint of the State. The Georgian Civil Code regulates

legal relations between private and legal persons within the contractual legal sphere, the task of which might be an ordered research or data compilation. (See also answers with respect to article 5, paragraph 1 (a), the last passage of the question).

VIII. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 4

97. There are some cases when 10 days are not enough time for finding the information and making it available because of the amount of information involved.

98. A Georgian law on the amount of fees for making a copy on the public information exists and defines the “system of fees” and the procedures of “fees and amount of payment”. According to the above-mentioned law, any other fees apart from copying charges are restricted by the law. This law does not cover those cases in which there is a certain fee for information defined by a special legislative act.

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

99. In accordance with the General Administrative Code of Georgia (Art. 49), every year on 10 December, each public authority is obliged to submit the report to the President of Georgia and to the Parliament on the information provided to the public.

100. There are no any special statistics about the provision of environmental information to the public.

X. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 4

101. www.moe.gov.ge.

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

Article 5, paragraph 1

Article 5, paragraph 1 (a)

102. In accordance with 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 MoE coordinates the environmental monitoring system. The results of environmental monitoring are available to the public. The State registration, reporting and assessment of qualitative and quantitative indices of the state of environment is

managed and coordinated by MoE within its competence together with the Ministry of Labor, Health and Social Affairs, the Ministry of Agriculture and Food and other relevant institutions in accordance with the rule established by Georgian Legislation. Unfortunately, financial and other obstacles hamper full implementation of this requirement of the Convention.

103. There exists an institutional system of data transfer in the field of hydrometeorology, geodynamical processes and environmental pollution. Two types of information – standard and specialized – are being prepared for interested parties on hydrometeorology and environmental pollution. The formats of information about standard hydrometeorological and environmental pollution, the list of Governmental Authorities, Ministries and Departments - to whom the standard information is provided without special request, are determined in advance; and the terms and types of data transfer about the hydrometeorological and environmental pollution (courier, fax, email, mail) are all included. Dissemination of standard hydrometeorological information is free of charge. However special information about hydrometeorological, geodynamical processes and environmental pollution developed upon the request of interested party is the special fee charged that depends on the type of service provided.

104. One of the main principles of National Law of Public Health is to provide clear specification of competence among public agencies in the field of public health and to facilitate their close coordination at the process of planning and implementing of the health-related activities (Art. 4, para. b).

105. The Environmental Health Department – (established at the National Centre of Disease Control and Public Health of the Ministry of Labour, Health and Social Affairs) is responsible for:

- (a) The monitoring of the health risks, analysis and conduct of scientific researches for promoting secure environment for human health;
- (b) Preparing recommendations along with the Ministry related to children and youth issues;
- (c) Cooperating with governmental, international and non-governmental organizations that are to facilitate a secure environment for public health.

106. Information about existing and possible hydrometeorological occasions is provided daily to the preliminary determined category of consumer. Information about possible natural hydrometeorological and geodynamical phenomena is provided to the consumer immediately. Information about the extreme pollution of the environment is also provided immediately (the criteria for measuring extreme pollution of the environment is set in advance).

Article 5, paragraph 1 (b)

107. The entrepreneurs whose activity requires the environmental impact permit must deliver the applicable information to MoE, according to the permit's conditions.

108. According to the “State Register Forms”, every entrepreneur delivers the annual information on water discharge and emissions to MoE.

109. Major environmental State subdivisions (hydrometrology, geodynamical processes, environmental pollution, biodiversity, wastes, etc) are subordinated under MoE. A large number of these subdivisions are under the supervision of the “Centre for Monitoring and Forecasts”. A special subdivision has been established within the centre which works on linking the data on hydrological, metrological, geodynamical processes and environmental pollution. As for the correlation of databases between other State or non-governmental structures, this has not been relevantly regulated yet.

110. Different mechanisms are used to ensure the quality of data on meteorological, hydrometeorological and environmental pollution and their control. These mechanisms include:

- (a) Supply of meteorological gauging to measure hydrometeorological and environmental pollution. Certain obstacles have been identified as caused by the lack of appropriate modern monitoring technical devices;
- (b) Planned or unplanned methodical inspection of observation posts;
- (c) Training and qualification development for observers;
- (d) Using special quality measuring methods during the statistical processing of data, also data checking by analysts.

Article 5, paragraph 1 (c)

111. Information about dangers that can treat human life and health, natural disasters, catastrophes and other unusual events which have already happened or could happen in the future and threaten civil security, should not be confidential (General Administrative Code of Georgia, Art. 42; Law of Georgia on the State secrets, Art. 8).

112. According to the Georgian Law on Protection of the Population and the Territory from the Natural and Man-caused States of Emergency, the State Authority, Abkhazian and local authorities and the administrative body of the legal entity are responsible to provide the public with timely and clear information through information sources (via printing or electronically, including the Internet.). Article 8 of this law envisages accessibility of the information during the state of emergency. Also under the Georgian Law on Hazardous Chemical Substances, Article 44, local government bodies are responsible to publicise the information on accidents and states of emergency caused by the use of hazardous chemical substances.

113. According to this law, the National Reaction Plan on the Natural and Man-caused States of Emergency envisages a combined response of all reaction plans for those ministries, State departments under the ministries’ supervision and legal entities of public law that facilitate the protection of the population and the territory from natural and anthropogenic states of emergency.

114. From the main principles of Georgian Law of Public Health, the following should be underlined (Art. 4, para. (a) and (b)).

- (a) To provide prevention activities in order to prevent health-related threats;

(b) To provide clear specification of competence among public agencies and to facilitate their close coordination in the process of planning and implementing of the health-related activities.

115. Chapter 2 of the above-mentioned law refers to the duties and responsibilities of the public and legal entities in the field of health-care. According to Article 5, paragraph (e), each person in the territory of Georgia is obliged to provide the information to the public health-care service on any emergency situation related to violation of sanitary norms during production and technological processes.

116. According to Article 35, paragraph 6, of the above-mentioned law, the Ministries of Defence, Justice and Internal Affairs of Georgia are responsible for immediately providing information to Public Health Service on any situation that may appear hazardous for public health and security.

117. Polluters, along with certain other agencies, provide information in emergencies to the local government bodies, responsible for providing the information to the general public.

118. According to Georgian legislation, post-emergency information is public and is accessible for everyone, excluding in cases when the investigation is under way to identify the persons and reasons causing the emergency situations.

119. It should be noted that under the Article 233 of the Criminal Code of Georgia, the act of concealing or providing non-complete information on an accident involving a nuclear or radiation object is regarded as a criminal offence. According to Article 247 of the Criminal Code of Georgia, the act of concealing or providing false emergency information related to a hazardous situation for human health and life is also regarded as a criminal offence.

Article 5, paragraph 2

120. Each public authority is obliged to keep a public register of information (the General Administrative Code of Georgia, Art. 35). A public register is open for everyone.

121. 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 requests for information (General Administrative Code of Georgia).

122. An environmental meta-database does not exist yet, though preliminary activities for its development are under way.

Article 5, paragraph 3

123. A website MoE has been developed and it is possible to put progressively the information noted in the paragraph 3 on this website. The website is constantly updated.

Article 5, paragraph 4

124. In accordance with the Law of Georgia on Environmental Protection, MoE annually submits the national report on the state of environment to the President of Georgia in order to inform the public. The National Report represents the summary document of the existing information on state of environment in Georgia. The conditions of particular environmental components and the results of environmental activities are summarized in the document. The 2001, 2002, 2002 and 2005 National Reports were prepared and approved according to the decree of President of Georgia. The 2006 report is currently in the process of elaboration; once approved, it will be placed on the websites of MoE and “Aarhus Centre Georgia”.

Article 5, paragraph 5

125. There is an established practice at the MoE for carrying out consultations with NGOs, which can cooperate with the MoE during the development of legislative and strategic documents relating to the environment. The MoE uses its own and the Aarhus Centre Georgia’s website for operative dissemination of information.

126. Environmental legislation, strategies, policy, international agreements and related documents are displayed on the official website of MoE. If an official application to receive of such information is submitted to the Ministry, the responsible person must provide access to the information immediately or within 10 days. Documentation procedures are included in the annual reports of the Ministry. Since 2007, Georgian environmental legislation has been placed on the website of the “Aarhus Centre”.

Article 5, paragraph 6

127. The procedure of granting an eco-label to products formally exists in Georgia. 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).

128. Measures specially designed for small and medium-size enterprises are not prescribed by the legislation of Georgia.

Article 5, paragraph 7

129. Meetings are carried out with NGOs at the MoE for the purpose of reporting on MoE activities and consultations regarding other significant issues.

130. The Public and Media Relations Service of MoE is responsible for updating the website with information related to ongoing activities and the future objectives of MoE. This service arranges press conferences and briefings, and provides press releases, press digests, information for different agencies, interviews and statements for the media, etc. It organizes duty trips for journalists along with the Ministry Officials, promotes awareness raising campaigns, makes advertisements and video clips, and conducts social inquiries on environmental issues. For effective dissemination of information, the Public and Media Relations Service is assisted by NGO networks and information agencies.

Article 5, paragraph 8

131. In accordance with legislative regulation approved in 2003, information about products should be available on the packaging and should be in national language. A special requirement regarding environmental information has not been formalized.

132. A requirement with respect to public participation in awarding or monitoring the use of eco-labels is not prescribed by the National Legislation of Georgia. There is no practice also on this issue in the country. According to the Provision on Eco-labelling (Art. 4, 1999), adopted on the basis of the Georgian Law on Environmental Protection (Art. 19, para. 2), ecologically clean production is granted an eco-label by the Eco-labelling Interagency Committee, established within the MoE. Committee membership must be represented by the representatives of environmental protection, health-care and other relevant government agencies and public organizations.

Article 5, paragraph 9

133. MoE will study the European experience of pollutant registers and will elaborate a progressive introduction of this experience in Georgia.

134. A feasibility study on the development of a National Register of Pollutant Release and Transfer Register (PRTR) has been prepared. At the moment, there is no PRTR system in the country.

135. PRTR reporting obligations have not been harmonized with other existing environmental and related reporting obligations.

XII. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 5

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

137. To timely obtain public information, there is a need to develop the entire environmental database for facilitation of seeking of information. MoE is currently working with relevant institutions to set up this issue.

138. On 8 June 2007, the Law of Georgia on Protection of Citizens and Areas from Emergency Situations Caused by the Natural Disasters or Man-made Activities was adopted. The purposes of this law are:

- (a) Prevention of emergency situations and their proliferation;

- (b) Decrease of loss caused by emergencies;
- (c) Elimination of results caused by emergency situations, though collaborative efforts.

139. The quality of the National Report on the State of Environment highly depends on the timing and efficiency information contributed from different entities; often the material is poor and does not provide an opportunity for analysis. Except the afore-mentioned, the standards of elaboration of National Reports are outdated and need improvement. Concerning the publishing of reports, it should be noted that, according to the 25 June 1999 (No.89) decree of the President of Georgia, the publishing of a national report was the duty of the State Chancellery before the Presidential Decree No.60 of 13 February 2004 entered into force (according to this Decree, the Presidential Decree No.81 of 31 January 1997 on “Temporary Statute and Structure of Georgian State Chancellery” became null and void and “State Administration” was established). Currently, the responsible body for the printing and publication of the national report is not defined.

140. The annual reports on the state of environment are of low quality. The MoE has a lack of expertise in the preparation of high-quality reports and has no financial resources to hire the qualified experts for this. Related reasons are the obstacles of printing and the dissemination of the reports. The final report for 2003 was disseminated through the CENN electronic network in 22 December 2004.

141. The high costs of publishing the information hamper the dissemination of information stated in the paragraphs 5 and 7. The existence of a regular press organ at MoE would improve the situation significantly.

142. The approved provisions regarding the eco-label are not up to the best international experience. The standards of various ecologically pure products are not elaborated; no one eco-label has been granted yet; no application has been received yet (this fact notes itself to the low awareness); the term “ecologically pure product” is not understandable to the public – and both consumers and providers identify it with the term “harmless for health”. It is used in advertisements of various products with unlimited and unconfirmed forms, which provide the public with no information.

143. Several instruments of mass media reach backcountry regions quite slowly; the postal system does not work properly; Internet communications are not in order yet (it is worth noting however that during last years, the situation has improved significantly). Such are the main obstacles for providing information to the NGOs and active people living in the backcountry regions.

144. The goals of analysing European experience in pollutant inventory and developing a national system on its basis are planned at MoE, but the Ministry is not provided with the necessary resources.

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

145. An office work database has been developed at MoE.

146. A website has been developed at MoE for transparency of current MoE work and timely dissemination of information. The website is accessible through the Internet and it will be updated continuously (it will be activated in the near future).

147. MoE uses electronic networks of CENN, REC and the Aarhus Centre for dissemination of information.

XIV. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 5

148. www.moe.gov.ge; www.aarhus.dsl.ge.

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

149. In Georgia, the provisions of article 6, of the Convention are applied with respect to environmental impact permits. This procedure envisages broader rights for public than are considered in the Convention, i.e. not only NGOs but everyone has the right to take part in the procedure and also to claim procedural and essential legality. The obligatory components of the procedure are as follows: submission of the documents for public examination and announcement of this, receiving comments, carrying out the public hearing, and publishing a decision. An administrative decision made under the breach of procedure is considered to be cancelled. Everyone is entitled to claim against such decision and to take the cancellation to the court. The established procedure for issuing permits meets almost all requirements of the article 6.

150. Governmental Decree No.154 of 1 September 2005 defines a list of activities subject to environmental impact assessment (EIA). All these activities are subject to EIA, which covers all procedures under article 6.

Article 6, paragraph 1

151. Decree No.154 of 1 September 2005 by the Government of Georgia applies the procedures of article 6 of the Convention with regard to submission of an EIA of a planned activity.

152. According to the national legislation of Georgia, public participation in the procedure of issuance of a permit is envisaged from the announcement of information on an activity (for 45 days) to the submission of an EIA to MoE. A final decision to issue the permit is made by MoE, by taking into consideration comments and suggestions from the public.

Article 6, paragraph 2

153. Governmental Decree No.154 of 1 September 2005 fully ensures public participation during the decision-making on issuing environmental permits for activities. Georgian legislation obliges investors to conduct a public hearing of EIA prior to application to the relevant administrative agency for the permit. The investor must publicize the planned activity through both central and local newspapers (e.g. the newspaper of that particular region where the activity is planned to be implemented). 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, and the address where the public can acquire documents related to the activity. A time frame for submission of public comments, as well as date and time of the public hearing, should also be included in the announcement.

154. National law does not define the “public concerned”; however, the “public concerned” implies any person living in Georgia whose interest is to live in a healthy and safe environment. The right is protected under Article 37 of the Constitution of Georgia: everyone shall have the right to live in a healthy environment and enjoy natural and cultural surroundings; everyone shall be obliged to care for the natural and cultural environment.

155. The national legislation does not provide any special mechanism for the encouragement of public participation.

156. An administrative body is obliged to notify the public concerned. In the case that the public is not informed in a timely manner, the responsible official is brought to account according to the norms of the national legislation of Georgia.

Article 6, paragraph 3

157. Submission of public comments starts from the day when the announcement is published and lasts 45 days.

158. Chapter IX of the General Administrative Code of Georgia defines the procedures of public consultations during the decision-making process. According to the Code, the time frame for receipt of public comments must not be less than 20 days.

159. Under the 1 September 2005 decree of the Government of Georgia on Rules and Conditions of Issuing of Environmental Permits, an investor is obliged to disseminate information and conduct a public hearing prior to application to the administrative body for the permit for implementation of its activity. The investor must conduct the public hearing within 60 days after announcing the information.

160. Under the 1 September 2005 decree of the Government of Georgia on Rules and Conditions of Issuing of Environmental Permits, an investor is obliged to accept written comments and suggestions from the public within 45 days after announcing the information.

Article 6, paragraph 4

161. The information on the activity is published in both the central and local (in the newspaper of that particular region where the activity is planned to be implemented) newspapers and publication of the announcement is to be ensured by the investor.

162. The stages of a decision-making procedure at which the public notification shall take place are well defined in both the General Administrative Code of Georgia and the 1 September 2005 decree of the Government of Georgia on Rules and Conditions of Issuing of Environmental Permits.

163. Public participation is not considered in the screening or scoping phase of an EIA procedure.

164. According to the national legislation of Georgia, an investor is obliged to inform the public in advance of a public hearing on a planned activity.

Article 6, paragraph 5

165. The investor should carry out a study of environmental impact and prepare the EIA document before publishing an announcement on the activity and applying to the administrative agency for a permit. The investor at this stage has a right to hold consultations with the public. The results of such consultations should be attached to the application for a permit.

166. According to the national legislation of Georgia, only the investor is obliged to conduct a public hearing on the planned activity.

Article 6, paragraph 6

167. The investor is 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 public hearing, and ensure preparation of the public hearing protocol and submission of it to the administrative agency issuing the permit. This information is open to any interested party.

168. Under subparagraph (f) of Article 4 of the Decree No.154 of 1 September 2005, in the case that the activity includes State or commercial secrets, the investor must submit an application on the confidentiality of the application. According to Article 4, paragraph 3, of the above-mentioned decree, the applicant of the permit is to provide the administrative body with a complete scheme of the technological cycle, even if the activity constitutes industrial, commercial and State secrets. The above-mentioned situation in the case of issueing of an environmental impact permit has not been registered so far by MoE.

Article 6, paragraph 7

169. Any person has the right to give written comments and suggestions to investor within 45 days after the publishing of the announcement on the activity. The investor is to consider public comments and suggestions and to take them into account when preparing final version of the

EIA report.

170. Multilateral discussion techniques are effective when participation of all the public concerned is equally ensured in decision-making processes having an impact on the health, working and living environments of the public and generally on environmental issues and policy.

Article 6, paragraph 8

171. According to the Administrative Code of Georgia (Art. 96), the administrative body, when making a decision, should examine all significant circumstances relevant to the proposed activity and make the decision on the basis of the assessment and summary of these circumstances.

172. According to the Regulation on Rules and Provisions on Issue Environmental Impact Permit (2005), in any case an investor is obliged to consider all comments received from the public. If the suggested comments are not taken into account, the investor is obliged to provide written reasonable arguments to the authors of the comments.

173. The national legislation does not provide regulations enabling members of the public to view public comments which have been submitted throughout the commenting procedure. Such cases have not been registered so far.

Article 6, paragraph 9

174. The Administrative Decree of the Minister on the issue of the permit pertains to public information. Moreover, the permit register is regularly updated and sent to the Ministry of Justice of Georgia.

175. According to the General Administrative Code of Georgia, Article 53, an administrative decree must include a written justification. Section 5 of this article states that an administrative agency may not ground its decision on the circumstances, facts, evidence, or arguments that have not been examined and analysed during the administrative proceeding. Hence, a legal administrative decree issued by an administrative agency is based on professional and legal conclusions, if such are essential for the determination of factual circumstances important for the case.

Article 6, paragraph 10

176. According to the national legislation of Georgia, technological and technical renewal of existing enterprises also requires an environmental permit. All above-mentioned provisions should be followed while issuing the permit.

177. When reconsidering and updating the decision of an administrative agency, it should be taken into account that there is no definition of such terms in the national legislation. However, Chapter XIII of the General Administrative Code can be considered. According to this chapter, the public concerned has the right to raise an administrative complaint against an administrative agency. An administrative complaint is reviewed and resolved by the administrative agency that issued the administrative act, if there is an official or the higher official of a structural

subdivision which issued the act. A complaint against the administrative act issued by the chief official of an administrative agency shall be considered by the higher administrative agency. The chapter mentioned also describes procedures for reviewing an administrative complaint and administrative proceedings. The administrative agency shall invite interested parties to participate in the review process, protect their rights and conduct an oral hearing. An oral hearing shall be open to public.

Article 6, paragraph 11

178. A Law on genetically modified organisms is under development (UNEP/GEF⁴ project), in which the approaches of the Aarhus Convention have been reflected.

**XVI. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION
OF ARTICLE 6**

179. Level of public participation in public hearings of EIA is low.

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

180. In reality, only 15 to 20 per cent of the public participates in EIA consideration. Generally, the public has an interest in the larger projects (e.g. the Baku-Tbilisi-Ceyhan pipeline). The low percentage of public participation can be explained by the above-mentioned reasons: the following additional reasons can also be mentioned:

- (a) Poor resources for public participation (inter alia, NGO resources). As a result, there is a need for a concentration of resources in a clearly defined source;
- (b) Lack of interest expressed from NGOs. There is a need to raise the interest of NGOs with big projects;
- (c) The weakness of organizations which express the public interest of communities and scarcely populated areas.

**XVIII. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION
OF ARTICLE 6**

181. www.moe.gov.ge.

⁴ United Nations Environment Programme/ Global Environment Facility.

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

182. Infrastructure and other types of plans, projects and programmes are excluded from the list of activities subject to environmental impact assessment defined by the Governmental Decree of 1 September 2005 on Approval of Provision on Procedure and Conditions of Granting Environmental Impact Permit. As for public participation in the development of plans and projects, public hearings are held and public comments and suggestions are considered and taken into account.

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

183. MoE develops environmental policy (strategies and concepts). In order to insure public participation, public hearings of the above draft documents are regularly held. In most cases public comments and suggestions are taken into account. Some examples of progress made include:

(a) With the support of international organizations, most of the projects have been implemented. Information on the ongoing and completed projects of the MoE is placed on the Ministry website.

(b) Under the initiative of the Government the Medium-Term Expenditure Framework has been introduced and functions. With the introduction of the instrument, the planning process itself became more significant.

184. The Medium-Term Action Plan of the Government of Georgia for 2008–2011 has been developed, according to which Medium Term Action Plans have been defined for all institutions of Georgia, including MoE. On the basis of the Plan, priorities for the years 2008–2011 for MoE have been identified.

185. According to the national legislation, policies are defined by the Parliament of Georgia, and plans and programmes, depending on their content, can be established either by a particular administrative agency or by law through a normative act issued by the Government and the President.

186. The national legislation does not define which types of strategic decisions are considered to be “relating to the environment”.

XXI. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 7

187. Infrastructure and other types of plans, projects and programmes are excluded from the list of activities subject to EIA defined by the governmental decree of 1 September 2005 on Approval of Provision on Procedure and Conditions of Granting Environmental Impact Permit.

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

188. Development processes of PRSP document, Second National Environmental Action Programme and Forest Policy.

XXIII. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 7

189. www.moe.gov.ge, www.mof.ge; www.aarhus.dsl.ge.

XXIV. EFFORTS 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 PURSUANT TO ARTICLE 8

190. The Constitution of Georgia, the General Administrative Code of Georgia, the Law of Georgia on Environmental Protection and the Law of Georgia on Environmental Permits ensure the implementation of the rights stipulated by article 8 of the Convention. Public administrative proceedings are used also for publishing the normative documents by the executive authority (General Administrative Code of Georgia, Chapter XV). The law guarantees public participation in this process.

191. Public participation at the conceptual stage of the legislative procedure is regulated by the General Administrative Code of Georgia, Chapter XV (the Administrative Procedure Related to the Issuance of a Normative Administrative Decree).

192. Under Chapter IX of the General Administrative Code of Georgia, the public can submit written comments within 20 days.

193. Generally, each administrative agency puts draft normative acts on its website.

194. According to the General Administrative Code of Georgia, the agency issuing the act must publicize a draft normative act, and hence the agency shall receive public suggestions and comments for review.

195. Specific techniques for facilitating public participation in the preparation by public authorities of executive regulations that may have a significant effect on the environment are not regulated by the legislation of Georgia. However, the administrative agency places information on its website and cooperates with NGOs, who provide information dissemination and familiarize the local population with projects.

XXV. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 8

196. The requirements under the law are established, but formally the procedure of public participation in the development of the draft laws is insufficient. Therefore, incorrect ways, methods and time-limits for public participation occur quite often (e.g. dissemination of the draft law by the NGO electronic network two to three days before its consideration).

197. In the development of draft laws, a wide range of public participation takes place. In general, the State position can be explained as “passive waiting” – the opportunity will given to the public, if the public express itself an interest to participate and the will to. However, some public institutions do not express their enthusiasm in this regard.

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

198. See e.g. the draft law on eco-audit, the law on GMOs.

XXVII. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 8

199. www.moe.gov.ge.

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

200. The practice of applying of the text of the Convention already exists.

201. In the case of a claim against a decision of an administrative agency and after its review, the courts have the right to annul and void the decision according to norms stated by the Code of Administrative Proceeding Code of Georgia.

202. The independence of the administrative review is regulated by the General Administrative Code of Georgia, Chapter XIII (the Administrative Procedure Regarding the Administrative Complaint).

Article 9, paragraph 1

203. Any person may make a claim against a public authority both to the high-level authority and (or, when he/she wants after this claim) to the court as well, if a violation of his/her right to access to the information has taken place (the Law of Georgia on Environmental permit, Art. 17, para. 2). According to this paragraph, the public authority is obliged to execute the final decision. Reasons for the refusal to provide access to the information should be stated in a required form.

Article 9, paragraph 2

204. Any person may make a claim regarding a violation of the procedure of public participation in administrative decision-making, both to the high-level authority and (or when he/she wants after this claim) to the court.

205. Under the national legislation, NGOs must be registered in accordance with law. If an NGO undertakes activities to promote environmental protection, then this must be included in its charter.

Article 9, paragraph 3

206. According to the General Administrative Code of Georgia, any person has the right to bring a case before a court against any action or inaction which contradicts procedures of the national environmental legislation.

207. The General Administrative Code of Georgia, the Administrative Proceeding Code of Georgia and the Procedural Criminal Code of Georgia implement the requirements of article 9, paragraph 3, of the Convention.

208. According to the legislation of Georgia, any member of the public can appeal to the court if his/her right has been violated and if he /she suffered damage or his/her right has been restricted by the decision or activity of an administrative agency.

209. The conditions of issuing an injunctive relief by the court in cases brought under article 9, paragraph 3, of the Convention are considered by the Administrative Proceeding Code of Georgia, the Procedural Criminal Code of Georgia and the Code of Procedural Civil Law of Georgia.

Article 9, paragraph 4

210. Taking into account the interests of enterprises, the Law of Georgia on The Foundations of Issuing the Permits and Licenses on the Entrepreneurs' Activities cancelled the automatic injunctive relief in the case of permits and licenses; however, a plaintiff may make a request for it. A court (a high-level organization) will make an appropriate decision on the substance of the case. According to this Law, the automatic injunctive relief doesn't specifically refer to environmental issues, which leaves room for interpretation by lawyers. In most cases, however, the reconstruction process is ceased. One case has been recorded in which a court appeal was made with a claim regarding an environmental issue, but construction activity was not stopped and reference was made to the above-mentioned law.

211. Under the General Administrative Code of Georgia, an administrative agency must designate a public servant who will be responsible for ensuring to provide the public information. In the case of illegal denial of access to public information or disregard of responsibilities by the public servant, he/she is brought to account according to the norms of the law on Public Service of Georgia.

212. In the national legislation there is no classification of judges specializing in environmental cases.

213. The costs that members of the public incur in bringing cases to court are based on the tariff for public tax rates according to the Georgia Law on Public Taxes, article 4, of the year 1998:

- (a) The scheme of the payment of public taxes on the cases brought to the common courts:
 - (i) For a suit and also for the statement on receipt of simplified payment order – 3 per cent of the object of dispute but no less than 100 GEL;
 - (ii) For an appeal, including the decision of the regional (city) court upon denial to resume a case – 4 per cent of the object of dispute but no less than 150 GEL;
 - (iii) For cassation, including the decision of Court of Appeal to deny to resume a case – 4 per cent of the object of dispute but no less than 150 GEL;
 - (iv) For a personal suit – 50 GEL;
 - (v) For an appeal to satisfy the suit and on the suit – if the claimant is private person – 50 GEL and if the applicant is juridical person, –150 GEL;
 - (vi) For an appeal to resume the case due to the new circumstances 100 GEL if the claimant is a private person, and 300 GEL if the applicant is a juridical person;
 - (vii) For an appeal on nullification of a decision – 50 GEL;
- (b) Public tax tariff on the cases brought to the common courts shall not exceed 50,000 GEL;
- (c) Public tax tariffs on the cases brought to the Constitutional Count are as follows:
 - (i) For constitutional appeals by a private person -10 GEL;
 - (ii) For constitutional appeals and constitutional submittal of any other person – 55 GEL.

Article 9, paragraph 5

214. Several governmental bodies and some active NGOs and international organizations conduct active campaigns regarding public awareness of access to justice. The number of claims for violations of access to information and public participation are increasing.

XXIX. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 9

215. Unfortunately, the time limit for consideration by the court of claims of violations of rights on access to information often lasts more than two months (there was one case where the final decision was issued after 18 months)

216. State tax privileges do not apply to legal entities (inter alia, to NGOs). There was one case where a NGO paid the tax equivalent of \$ 1,500. This amount of money is too large for Georgia.

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

217. There are no environmental justice statistics. Regarding the right on access to various information, 38 cases of proceedings were initiated from 2000 to 2004; two cases of proceedings in violation of public participation in environmental decision-making have been initiated at the court at the moment.

218. There was a case when, in a result of the Convention statement, the court abated the State tax for the NGO from 4,000 to 1,000 lari (this is also a large sum).

XXXI. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 9

219. Council of Justice of Georgia: www.coj.gov.ge/; the Supreme Court of Georgia: www.supremecourt.ge/; General Courts of Georgia: www.court.gov.ge/, Georgia Young Lawyers' Association: www.gyla.ge/; Association: www.alpe.ge/; Union "42 Article of the Constitution": www.article42.ge/.

XXXII. CONTRIBUTION OF THE IMPLEMENTATION OF THE CONVENTION 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

220. After the accession of Georgia to the Convention, the opportunities of citizens to affect how their Government protects them and their environment and to make contribution themselves regarding environmental protection have tangibly increased. Public institutions have responded to the pronounced tendency of growth in public activity. The rate of progress is more evident in the case of active and relevant policy. Participation in specific activities increases the number and experience of persons who participate actively in the public development process.
