


Annex

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

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

Name of officer responsible for submitting the national report:	<u>Nino Gokhelasvili – Aarhus Focal Point, Senior Specialist of International Relations and Project Preparation Division, Department of Sustainable Development, Ministry of Environmental Protection and Natural Resources of Georgia</u>	Deleted: Zaal Lomtadze – the Deputy Minister
Signature:		Deleted: <sp>
Date:	<u>10.12.2007</u>	Deleted: 11.01.2005

IMPLEMENTATION REPORT

Please provide the following details on the origin of this report

Party	Georgia	
National Focal Point		
Full name of the institution:	The Ministry of Environmental Protection and Natural Resources of Georgia	
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Full name of the institution:	
Name and title of officer:	
Postal address:	
Telephone:	
Fax:	
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Provide brief information on the process by which this report has been prepared, including information on which types of public authorities were consulted or contributed to its preparation, on how the public was consulted and how the outcome of the public consultation was taken into account and on the material, which was used as a basis for preparing the report.

Answer: The first draft report was delivered to the all Ministries (8), 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 comments. In October, when the comments have been received and considered, the second draft report was prepared and disseminated again through the CENN. The public hearing was held on 28 November, 2007. The report was completed and sent to the secretariat on 17 December, 2007. The final version of the report is available at the Aarhus Centre Georgia's web-site in both Georgian and English languages..

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

Answer:
 - Convention applies directly (According to the Law of Georgia on International Agreements (article 6, paragraph 2) international agreements have advantage over the national legislation)
 - Financial constrains are significant obstacles both for collection the information and its elaboration, edition and dissemination
 - Necessary procedures for implementation the Convention are developed at the minimum level because of institutional difficulties of authority and a poor public awareness as well

Deleted: The comments have been received from the Ministry of Security and Ministry of Justice. The Ministry of Education and Science and the Environmental Committee of the Parliament replied without comments.¶ The first completed draft report was disseminated to the all environmental NGOs through the nongovernmental electronic network CENN and to the environmental judicial NGOs also. The comments have been received from the NGOs' initiative grope and from the NGO -"Green Alternative". Public hearing was held on 26th of November at the MoE. The corrected report was considered at the MoE. The final version of the report will be disseminated through the REC electronic network and placed on its web site on 12 January 2005

Article 3

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

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

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

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

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

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

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

Answer:

(a) The current Georgian Legislation is in compliance with the most of the requirements of the Convention (see below). Besides, the Convention 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 envisages the protection of citizens' rights in environmental matters. In particular, regarding the article 6 of this Law, each citizen has a right to live in the healthy environment, to obtain complete, impartial and timely information on the state of his/her working and living surroundings as well. In order to inform the public the 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 the article 15 of this Law" for protection and sustainable development of the environment the environmental protection planning system (Sustainable Development Strategy) is under development, which comprises itself a long-term strategic plan. It's necessary to ensure the public participation in the development of the project of Sustainable Development Strategy"

(b) 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".

The MoE of Georgia has developed "The State Program for Public Ecological Education", approved by the Presidential Decree in 2002

(c) In accordance with the Law of Georgia on the Protection of 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)

(d) Georgia always supports public participation in international global and regional environmental decision-making processes (WSSD, "Environment for Europe", Environment and Health") according to the principles of the Convention

(e) The principles of the Aarhus Convention are protected under the Constitution of Georgia, the Law of Georgia on Protection of Environment and the General Administrative Code of Georgia. In accordance with the article 42 of the Constitution of Georgia, each person is entitled to apply to the court for protection his/her human rights (inter alia, the rights granted by the Convention) and liberty

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

Answer:

- Notwithstanding the existence of current Georgian Legislation there are many practical obstacles in implementation. It is worth to note, that according to the 2005 April # 22 Decree of Georgian Government, the State Commission for Sustainable Development of Georgia was established. According to this decree, the duty of Secretariat of the Commission is assigned to the Ministry of Environment Protection Natural Resources of Georgia. The National Report on the State of Environment is being elaborated annually according to national legislation: the report of 2005 is placed on "Aarhus Centre" website and is accessible for everyone. The second National Environmental Action Plan (NEAP) is in the process of elaboration. The experts' reports on priority activities had been prepared and will be submitted to the Government of Georgia this year. There were some cases when decisions regarding the big projects were made with violations of existing legislation (it was caused either because of lack of knowledge in environmental legislation from the side of some governmental bodies and investors or because of lobbying for the special interests) in previous years. Environmental organizations expressed their great protest against above-mentioned events and the situation has been improved a little after this; though the actions from the government regarding this case is not sufficient yet
- The subjects considered in "State Program for Environmental Education of Population" are clearly defined in the range of study programs. The "National Goals Document" is elaborated, the considerable part of which, to environmental education. The system of school environmental education is currently in order.

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

Answer:

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

Deleted: - The coordination group was established for implementation of "The State Program for Public Ecological Education". The representatives from the Ministry of Education and Science, the MoE and the Ministry of Labor, Health and Social Affairs were included in this group. Currently, this group is under establishment ¶

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

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Article 4

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

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

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

Answer:

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

Everyone is entitled to require the information (the General Administrative Code of Georgia, article 37).

Information about protection of environment, data on the dangers also which can threat human life and health, should not be confidential (the General Administrative Code of Georgia, article 42, a)

- (a) (i): *In accordance with the General Administrative Code of Georgia (article 37, paragraph 2) a person is entitled to access to information without having to state an interest*
- (b) (ii): *In accordance with the General Administrative Code of Georgia (article 37, paragraph 1) any person is entitled to acquaint with information in the original. If there is a risk of damage the document, public authority is obliged to ensure the*

acquaintance with information under the supervision or provide a person with the properly confirmed copy of information

(iii): In accordance with the General Administrative Code of Georgia (article 37, paragraph 2), any person is entitled to choose the form of obtaining the information if the public authority holds this information in several forms

(b) Stricter time- limits are established in Georgia for providing the information. In accordance with the General Administrative Code of Georgia (article 40, paragraph 2), the information should be issued immediately and at the latest within 10 working days. Regarding the General Rule, the public authority is obliged to make the information available to applicant or allow him/her to acquaint 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 article 5). Such kind of approach is in compliance with the principles of the Convention

(c) (i) In accordance with the General Administrative Code of Georgia (article 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 the state or commercial information. A special stamp with such status exists on the documents. The following information is noted on the stamp: a status of confidentiality; the institution, which grants the confidential status to the information and its time-limit (commercial confidential information has no time-limit). Decisions, which were made regarding the granting the confidential status to the information or rejection the confidentiality of information, are included in the public register (i.e. it's open for the public, article 31). There is a list of information what should not be confidential (inter alia, information on the environment and data on the dangers, which can threat also the human life and health, article 42)

The whole information, that make 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 (article 27, 27¹). Confidentiality of the public officers who prepare the document is protected as well, except the governmental-political officials (the executive privilege, article 29)

Subparagraphs b) of paragraph 3, and subparagraphs a), g), h) of paragraph 4 of the Article 4 of the Convention are not valid in Georgia

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

(d) In accordance with the Administrative Code of Georgia (article 80), public authorities have stricter requirements. When receiving the application for the request of information, public authority is obliged to identify itself another public authority having the information requested within 5 working days and transfer the request to that public authority. The application with explanation should be given back to the applicant during 5 working days after the date of its application if such institution is not find out

(e) In accordance with the Administrative Code of Georgia (article 33), the reasonably separated reminder of the information should be disclosed after the exemption of the confidential information from the document. When issuing such kind of document the following information should be noted: about the confidentiality of the separated part of the document, a person who granted a confidential status, a reason of confidentiality and its time- limit

(f) In accordance with the Administrative Code of Georgia (article 41), stricter

requirements are established regarding the refusal than it's envisaged by the Aarhus Convention. The applicant should be informed regarding the refusal immediately. Following this, a written explanation should be given to the applicant within 3 days, where the information about that institution which was consulted while making the decision regarding the refusal should be noted. The right and rule to claim against this decision should be noted here as well

- (g) In accordance with the Administrative Code of Georgia (article 99), no charge should be established for information supply, except to make a copy or mail 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 and public authorities should pay attention to that

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

Answer:

- There are some cases when 10 days are not enough for seeking the information and make it available because of a big amount of information
- The law on of Georgia on Fees for Make a Copy on the Public Information” exists and it defines the “system of fees” and the procedures of “fees and amount of payment”. According to the mentioned law, any other fees then copying charges are restricted by the law. This law does not cover that cases, where there is a certain fee for information defined by a special legislative act.

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

Answer:

- In accordance with the General Administrative Code of Georgia (article 49), every year on 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
- There is no any special statistics about the providing environmental information to the public

Give relevant web site addresses, if available:

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

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Article 5

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

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

- (a) With respect to **paragraph 1**, measures taken to ensure that:
- (i) Public authorities possess and update environmental information;
 - (ii) There is an adequate flow of information to public authorities;

(iii) In emergencies, appropriate information is disseminated immediately and without delay;

(b) With respect to **paragraph 2**, measures taken to ensure that the way in which public authorities make environmental information available to the public is transparent and that environmental information is effectively accessible;

(c) With respect to **paragraph 3**, measures taken to ensure that environmental information progressively becomes available in electronic databases which are easily accessible to the public through public telecommunications networks;

(d) With respect to **paragraph 4**, measures taken to publish and disseminate national reports on the state of the environment;

(e) Measures taken to disseminate the information referred to in **paragraph 5**;

(f) With respect to **paragraph 6**, measures taken to encourage operators whose activities have a significant impact on the environment to inform the public regularly of the environmental impact of their activities and products;

(g) Measures taken to publish and provide information as required in **paragraph 7**;

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(h) With respect to **paragraph 8**, measures taken to develop mechanisms with a view to ensuring that sufficient product information is made available to the public;

(i) With respect to **paragraph 9**, measures taken to establish a nationwide system of pollution inventories or registers.

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Answer:

(a) (i) *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 it’s 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 the MoE of Georgia 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 the Georgian Legislation.*

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

(ii) *The entrepreneurs, the activity of whose require the environmental impact permit, deliver the applicable information to the Ministry of Environment Protection and Natural Resources of Georgia, according to the permit’s conditions.*

According to the “State Register Forms”, every entrepreneur delivers the annual information on water discharge and emissions to the Ministry of Environment Protection And Natural resources of Georgia.

(iii) *Information about dangers that can treat human life and health, natural disasters, catastrophes and other unusual events which have already happened or can be happened*

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in the future and threat civil security, should not be confidential (the General Administrative Code of Georgia, article 42; the Law of Georgia on The State Secret, article 8)

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

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 on the request of information (General Administrative Code of Georgia)

(c) The web site of the MoE now was developed and it became possible to put progressively the information noted in the paragraph 3 on this web site. The website is constantly updated.

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(d) In accordance with the Law of Georgia on Environmental Protection, the 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 existed 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 are prepared and approved according to the decree of President of Georgia. The 2006 report is currently in the process of elaboration, which after approval will be placed on the websites of the Ministry of Environment Protection and Natural Resources of Georgia and "Aarhus Centre Georgia".

Deleted: The registration, reporting and assessment of qualitative and quantitative indices of the state of environment means the development of the cadastre of the state of environment and natural resources, maps, statistics, inventory and certification

(e) There is an established practice at the MoE to carry out consultations with NGOs, which have a will to cooperate with the MoE, during the development of legislative and strategic documents relating to the environment. The MoE uses own and Aarhus Centre Georgia's websites for operative dissemination of information

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

(g) The meetings are carried out with NGOs at the MoE for reporting on the activities of MoE and consultations regarding other significant issues

(h) In accordance with the legislative regulation approved in 2003, the information about product on its packing should be in national language. The special requirement regarding the environmental information is not formalized

(i) The MoE is going to study European experience of pollutant register and elaborate progressive introduction of this experience in Georgia

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

Answer:

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

- *In order to timely obtain public information, there is a need to develop the entire environmental database for facilitation of seeking of information. The MoE is currently working with applicable institutions to set up this issue.*

- *On June 8, 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 purpose of this law is the following:*

a) Prevention of emergency situation and prevention of it's spread up;

b) Decrease of loss caused by emergencies;

c) Elimination of results caused by emergency situation though joint system;

- *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 opportunity for analysis. Except aforementioned, the standards of elaboration of National reports are outdated and need improvement. Concerning the publishing of report, it is worth to note, that according to the 25 June of 1999 # 89 Decree of President of Georgia, the publishing of national report was the duty of the State Chancellery, before the Presidential Decree # 60 of February 13, 2004 entered into force. (According to this Decree, the Presidential Decree # 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 printing and publication of national report is not defined.*

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

- *The high cost for publishing the information hampers the dissemination of information stated in the paragraphs 5 and 7. The existence of regular press organ at the MoE would improve the situation significantly*

- *The approved provision regarding the eco-label is not up to the best international experience. The standards of various ecological pure products aren't 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 "ecological pure product" isn't understandable for public – both consumers and providers identify it with the term "harmless for health". It uses in advertisements of various production with unlimited and unconfirmed forms, which provide the public with no information*

- *The several instruments of mass media reach backcountry regions quite late; mailing system does not work properly; internet communications are not in order yet (it is worth to note, that during last years, the situation had significantly improved). These are the main obstacles for providing information to the NGOs and active people living in the backcountry regions*

- *To analyze European experience in pollutant inventory and develop national system on its basis is planned at the MoE but is not provided with the necessary recourses*

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

Answer:

- *The office work database was developed at the MoE*

- *The web site has been developed at the MoE for transparency of the current work of the MoE and timely dissemination of information. The web site is available through the internet and it*

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will be updated permanently (it will be activated in the nearest future),
- The MoE uses electronic network of CENN, REC and Aarhus Centre for dissemination of information

Give relevant web site addresses, if available:

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

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Article 6

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

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

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

participation allow the public to submit comments, information, analyses or opinions that it considers relevant to the proposed activity;

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

Answer:

Answer:

- *In Georgia the provisions of this article are applied with respect to environmental impact permits. This procedure envisages the wider rights for public than it is considered in the Convention, i.e. not only NGOs but everyone has a right to take part in the procedure and also to claim for 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, publishing a decision. The administrative decision made under the breach of procedure is considered to be canceled. Everyone is entitled to claim against such decision and to take the cancellation to the court. The established procedure for issuing permits meet almost all requirements of the article 6:*

(a) The Governmental Decree #154 of September 1, 2005 defines list of activities subject to environmental impact assessment. All these activities are subject to environmental impact assessment that covers all procedures of the article 6.

(b) The Governmental Decree #154 of September 1, 2005 fully ensures the public participation during the decision-making on issuing environmental permits on activity. The Georgian legislation obligates investor to conduct public hearing of EIA prior to application to the relevant Administrative Agency for the permit. The investor is to publicize the planned activity through both central and local (the newspaper of that particular region where the activity is planned to be implemented) newspapers. This announcement should include the following information: type and location of the proposed activity, name and address of the investor, goals and category of the activity, approximate schedules for the activity, the address where the public can acquire with the documents related to the activity Time frame for submission of public comments as well as date and time of the public hearing should also be included in the announcement.

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

(d) 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

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by the investor.

- (e) Investor should carry out a study of environmental impact permit and prepare the document of EIA before publishing announcement on the activity and applying to administrative agency for a permit. The investor at this stage has a right to make consultations with the public. The results of such consultations should be attached to the application for a permit.
- (f) Investor is provided the public with 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.
- (g) Any person has right to give written comments and suggestions to investor within 45 days after publishing announcement on the activity. The investor is to consider public comments and suggestions and take them into account when preparing final version of the EIA report.
- (h) According to the Administrative Code of Georgia (article 96), the administrative body, while making decision, should examine all significant circumstances relevant to the proposed activity and make decision on the basis of the assessment and summary of these circumstances
- (i) 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.
- (j) According to the national legislation of Georgia technological and technical renewal of existing enterprises require also an environmental permit. All above mentioned provisions should be followed while issuing the permit
- (k) The Law on Genetically Modified Organisms is under development (UNEP/GF project), in which the approaches of the Aarhus Convention have been reflected

Deleted: The information on the application received of the environmental permit could be published within 10 working days from the registration of the application (the Law of Georgia on Environmental Permit, article 7)

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Deleted: <#>The Public Administrative Procedure envisages the following opportunities for the public ... [3]

Deleted: <#>In Georgia the provisions of this article are applied with respect to decisions on weather to permit ... [4]

Deleted: The environmental permit issuing procedure, established by the Georgian Legislation (1996), was qui ... [5]

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

Answer:

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

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

Answer:

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

mentioned:

- The poorer resources for public participation (inter alia, NGOs' resources). In a result, there is a need of concentration of resources in clearly defined course
- The less of interest expressed from NGOs. There is a need to arise the interest of NGOs with big projects
- Weakness of organizations which express the public interest of communities and scarcely populated areas

Give relevant web site addresses, if available:

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

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Article 7

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

Answer:

Infrastructure and other types of planes, projects and programmes are excluded from the list of activities subject to environmental impact assessment defined by the Governmental Decree of September 1, 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/ taken into account.

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

Answer:

The Ministry of Environment Protection and Natural Resources of Georgia 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.

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

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

Describe any obstacles encountered in the implementation of article 7.

Answer:

Infrastructure and other types of plans, projects and programmes are excluded from the list of

Deleted: According to the Law on Environmental Permit (1996), a wide range of plans and programs (inter alia, integrated plans, projects and programs; plans and projects of use and protection of water, forest, land, mining and other natural resources) requires environmental permit by elaboration of EIA and state ecological examination. The public participation in decision-making is a necessary component of environmental permit issuing¶

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Deleted: In spite of legislative requirements (e.g. the Law on Environmental Protection, the Administrative Code) in some cases, public participation depends on a good will of leading institution of the process. Though to ensure the opportunities for public participation is considered as a "good form", but it's not guaranteed formally and leaves place for interpretation. Although it's notable, that representatives of the public can take part in these processes if the interest of public is expressed (the relevant legislation exists for this issue). The problem is more about the awareness level than a participation right ¶

activities subject to environmental impact assessment defined by the Governmental Decree of September 1, 2005 on Approval of Provision on Procedure and Conditions of Granting Environmental Impact Permit.

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

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

Give relevant web site addresses, if available:

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

Article 8

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

Answer:

The Constitution of Georgia, the General Administrative Code of Georgia, the Law of Georgia on Environmental Protection and the Law of Georgia on Environmental Permit insure the implementation of the rights stipulated by the article 8 of the Convention. Public Administrative Proceeding is used also for publishing the normative documents by the executive authority (the General Administrative Code of Georgia, chapter XV). The Law guarantees public participation in this process

Describe any obstacles encountered in the implementation of article 8.

Answer:

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 take place quite often (e.g. dissemination of the draft law by NGOs electronic network 2-3 days before its consideration).

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

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

Deleted: <#>It turned out, that the requirements of the Law on Environmental Permit (1996) were unreal – so far there is no precedent of environmental permit issuing on plans and programs. Thus, existance of formal requirement is ignored. In spite of the above-mentioned information, the tendency to increase public participation in development of significant plans and programs is evident. Though this principle of the Convention cannot be ensured without legislative requirement ¶ <#>The MoE is planning to establish strategic environmental assessment instrument for mid-term period; the relevant draft program is already exists, which will develop a new draft legislative document with real principles and procedures in case of financing ¶ <#>Many projects have been implemented with support of international organizations. Unfortunately, there is no information about some of them. They were not implemented in transparent manner. The implementation of some projects on the development of local communities were quite unclear and adverse effects were occurred ¶ <#>The established procedure on local or central level for development of plans, programs and strategic documents, related to the environment, is not exist for today. The scheme of development of the national plans is not envisaged by the Georgian Legislation. Because of that the separate institution sometimes has opportunity to develop its sectoral plan; there are no definitions of “plan”, “program”, “strategy” and “concept”. Accordingly, public participation in this process is not established ¶ <#>The good results can be achieved by the introduction in practice of the initiative of the Ministry of Finance “Medium Term Expenditure Framework – MTEF”. The planning process is becoming more significant under this instrument and public participation will be more significant ¶

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Answer:

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

Give relevant web site addresses, if available:

<http://www.moe.gov.ge> ▼

Deleted: <http://www.parliament.ge/gov/enviro/Parliament/Ministry.htm> ¶

Article 9

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

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

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

Answer:

Basically, the requirements of this article are being implemented:

- (a) Any person may claim against the public authority both to the high-level authority and (or, when he/she wants after this clime) to the court as well, if the violation of his/her right on access to the information took place (the Law of Georgia on Environmental permit, article 17, paragraph 2). According to this paragraph, the public authority is*

obliged to execute the final decision. Reasons of the refusal to access to the information should stated in a required form

(b) Any person may claim for the 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 clime) to the court

(c) Accordin to the General Administrative Code of Georgia any person has right to bring a case before a court against any action or inaction which contradict procedures of the national environmental legislation

(d) Taking into account enterprisers' interests, the Law of Georgia on The Foundations of Issuing the Permits and Licenses on the Entrepreneurs' Activities canceled the automatic injunctive relief in case of permits and licenses; however, a plaintiff may 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 the environmental issues that leaves the room for its interpretation by the lawyers.

Although, as usual in the most cases the reconstruction process are ceased. One case is recorded when the court was applied by the claim on environmental issue but the construction activity was not stopped and reference was made to the above mentioned Law

(e) The several governmental bodies, some active NGOs and international organizations conduct active campaigns for public awareness in access to justice. The number of claims for violations of access to information and public participation are increasing

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Deleted: <#>Representatives of the public should use this right stipulated in the Convention and make reference to the court, as the Georgian Legislation doesn't contain the regulating norms in this matter¶

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

Answer:

- Unfortunately, the time-limit for consideration to the court of claims for violations of rights on access to information, often lengths more than 2 months (there was one case, when the final decision was issued after 18 months)
- The State Tax Privileges do not apply to the legal entities (inter alia, to the NGOs). There was one case, when the NGO paid the tax equivalent to 1500\$. This amount of money is too big for Georgia

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

Answer:

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

Give relevant web site addresses, if available:

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

Articles 10-22 are not for national implementation.

General comments on the Convention's objective:

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

Answer:

After the accession of Georgia to the Convention, the opportunities of citizens to control, how their government protects them and their environment and make contribution themselves in environmental protection, are increased evidently. The public institutions respond a pronounced tendency of growth public activity. The rate of progress will be more evident in case of active and relevant policy. The participation in the specific activities increases the number and experience of persons who participate actively in the public development process

The Law of Georgia on Environmental Protection and the Law of Georgia on Environmental Permit fully ensure the public participation during the decision- making in issuing environmental permits on activities. The Georgian Legislation sets up the time-limits and ways for dissemination of information and its minimum volume. In particular, the announcement regarding the receiving of application on the environmental permit should be published in the official edition of the relevant administrative body or in the press, which is issued (at least) weekly and covers the whole territory under the relevant administrative body, or if it's impossible, the information should be fixed on the public place (Administrative Code of Georgia, articles 56, 57). This announcement should include the following information: type and location of the proposed activity, name and address of the investor, goals and category of the activity, approximate schedules for the activity, the address where the public can acquaint with the documents related to the activity (the Law of Georgia on Environmental Permit, article 5), decision- making administrative body, time-limits for submission the comments and making final decision (General Administrative Code of Georgia, article 116). Information about the time and venue of public hearing should be announced in the same way and at least 7 working days before it starts (General Administrative Code of Georgia, article 110)

for decision- making, as it was mentioned above. In particular, the following documents should be submitted for public hearing: the application along with all documents; all official conclusions and opinions regarding the application which are received by the administrative body; the whole list of the documents which are not submitted to the public hearing because of any reason(e.g. the investor has received the status of commercial confidentiality regarding his/her activity upon request). This list of documents fully meets the requirements of the Convention

The Public Administrative Procedure envisages the following opportunities for the public to submit comments:

- Each written comment or opinion (inter alia, anonymous) made by any public representative regarding the application during the period of submission the comments, are registered and considered (General Administrative Code of Georgia, article 118)*
- The opinions made at the public hearing regarding the activity, are included in the protocol of the public hearing and considered also during decision- making process (General Administrative Code of Georgia, articles 111-112)*

In Georgia the provisions of this article are applied with respect to decisions on whether to permit entrepreneurs' activities. An environmental permit is issued

regarding the public administrative procedure. This procedure envisages the wider rights for public than it is considered in the Convention, i.e. not only NGOs but everyone has a right to take part in the procedure and also to claim for 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, publishing a decision. The administrative decision made under the breach of procedure is considered to be canceled. Everyone is entitled to claim against such decision and to take the cancellation to the court. The established procedure for issuing permits meet almost all requirements of the article 6:

There is a list of activities in Georgia, which have any effect on the environment (by the level and importance of impact on the environment, the activities are divided in 4 categories, from the serious and irreversible impact activities - the I category, to the insignificant activities - the IV category). This list of activities is wider than it's provided in the Annex of the Convention. The environmental permit is required for implementation of all these activities. The procedures indicated in the article 6 are comprised in the environmental permit issuing process

The Law of Georgia on Environmental Protection and the Law of Georgia on Environmental Permit fully ensure the public participation during the decision-making in issuing environmental permits on activities. The Georgian Legislation sets up the time-limits and ways for dissemination of information and its minimum volume. In particular, the announcement regarding the receiving of application on the environmental permit should be published in the official edition of the relevant administrative body or in the press, which is issued (at least) weekly and covers the whole territory under the relevant administrative body, or if it's impossible, the information should be fixed on the public place (Administrative Code of Georgia, articles 56, 57). This announcement should include the following information: type and location of the proposed activity, name and address of the investor, goals and category of the activity, approximate schedules for the activity, the address where the public can acquaint with the documents related to the activity (the Law of Georgia on Environmental Permit, article 5), decision-making administrative body, time-limits for submission the comments and making final decision (General Administrative Code of Georgia, article 116). Information about the time and venue of public hearing should be announced in the same way and at least 7 working days before it starts (General Administrative Code of Georgia, article 110)

Submission of public comments starts from the day when the announcement is published and lengths not less than 20 working days (45 days for the activities of the I category). This period should be enough for the public to make preparation and participate in consideration

The information on the application received of the environmental permit should be published within 10 working days from the registration of the

application (the Law of Georgia on Environmental Permit, article 7)

Investor should carry out a study of environmental impact assessment (EIA) and provide the document of EIA before applying for a permit (for the activity of the I category). The investor at this stage has a right to make consultations with the public. The results of such consultations should be attached to the application for a permit. Usually, big investors use this opportunity

The Public Administrative Procedure envisages the submission of significant documents to the public hearing for decision-making, as it was mentioned above. In particular, the following documents should be submitted for public hearing: the application along with all documents; all official conclusions and opinions regarding the application which are received by the administrative body; the whole list of the documents which are not submitted to the public hearing because of any reason (e.g. the investor has received the status of commercial confidentiality regarding his/her activity upon request). This list of documents fully meets the requirements of the Convention

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

(i) The decision (with justification) regarding the issue or rejection of the permit should be published in the same way as other information in decision-making process has been disseminated (the General Administrative Code of Georgia, article 121). The decision shall enter into force on the first day of its publication (the General Administrative Code of Georgia, article 54)

(j) According to the article 3 of the Law of Georgia on Environmental Permit (1996), the reconstruction, technological and technical renewal of existing enterprises require also an environmental permit. All above mentioned provisions should be followed while issuing permit

(k) The Law on Genetically Modified Organisms is under development (UNEP/GF project), in which the approaches of the Aarhus Convention have been reflected

The environmental permit issuing procedure, established by the Georgian Legislation (1996), was quite progressive for that time. The growing incompliance of above-mentioned procedure with the current requirements has been occurred during last 8 years

Decision-making regarding activity happens quite late. In particular, the location of activity, approved technology and the confirmation from all local authorities are already existed for this time. As a result, a choice in decision-making on environmental permit is quite limited. This fact on the one hand increases the contradiction between the public and investor and, on the other hand decreases effectiveness of public participation. As a result the public loses its interest. To increase the coordination of procedures regarding the permit issuing on entrepreneur activity is the subject of consideration in Georgia

The documental supplying from the launching of EIA is not clear

The application regarding the EIA procedure is not informative enough

The selection of experts is not established clearly

Currently the new project for preventing these gaps is under the implementation. This project is intended to develop legislative amendments. The MoE participates in the project together with NGOs