

# THE GENERAL ADMINISTRATIVE CODE OF GEORGIA

## CHAPTER 1

### General Provisions

#### Article 1. The purpose of this Code

1. This Code defines the procedures for issuing and enforcing administrative acts, reviewing administrative complaints, and preparing, concluding, and implementing administrative contracts by an administrative agency.
2. The purpose of this Code is to ensure the protection of human rights and freedoms, public interests, and the rule of law by administrative agencies.

#### Article 2. The definition of terms

1. The terms used in this Code have the following meanings:
  - (a) “Administrative agency” means any state or local self-government agency or institution and any natural or artificial person that exercises public authority in accordance with law.
  - (b) “Interested party” means any natural or artificial person or administrative agency that is affected by an administrative act issued in regard to it and whose legally protected interest is directly influenced by an administrative decree or action of an administrative agency.
  - (c) “Administrative decree” means an act issued by an administrative agency pursuant to law.
  - (d) “Administrative act” means an individual act issued by an administrative agency pursuant to Administrative Law, which establishes, modifies, terminates or affirms rights and duties of a person or a limited group of persons.
  - (e) “Normative administrative decree” means an act issued by an authorized administrative agency pursuant to an applicable legislative act which comprises general rule of conduct of permanent or temporary and multiple usage.
  - (f) “Empowering administrative decree” means an administrative act that grants some rights or benefits to an interested party.
  - (g) “Administrative contract” means a contract concluded between an administrative agency and a natural or artificial person or another administrative agency.
  - (h) “Application” means a written request filed pursuant to this Code by a party that has an interest in the issuance of an administrative act, which grants a certain right to the party.
  - (i) “Administrative complaint” means a written request submitted by an interested party to a competent administrative agency pursuant to this Code for the purpose of seeking redress through invalidation or modification of an administrative act issued by that agency or its subordinate body, or through issuance of a new administrative act.

(j) “Administrative proceedings” means activities performed by an administrative agency to prepare, issue, or enforce an administrative decree or solve an administrative complaint.

(k) ”Discretionary power” means the authority, which provides an administrative agency or official with some degree of latitude in regard to choosing the most reasonable decision among several decisions in compliance with public and private interests.

(l) “Public information” means an official document, including those kept by a public agency, and those received, processed, created, or sent by a public agency or public servant within its official authority.

2. Unless otherwise provided by law, the terms set forth in Paragraph 1 of this Article may not be otherwise interpreted or applied by other legislative acts.

### **Article 3. The scope of the Code**

1. This Code affects the activities of state, local self-government, and government agencies and institutions, and of those entities who act as administrative agencies in accordance with this Code.

2. This Code, except for Chapter 3, may not affect the activities of the following state institutions:

(a) the Parliament of Georgia and supreme representative bodies of the Autonomous Republics of Abkhazia and Adjara,

(b) the Advisory Board to the President of Georgia,

(c) the Public Defender of Georgia, and

(d) judicial institutions of Georgia.

3. This Code affects those activities of the institutions and officials provided in Paragraph 2 of this Article that are related to the performance of administrative functions.

4. This Code may not affect those activities of the Executive that are related to:

(a) criminal prosecution and criminal proceeding against the person who committed a crime,

(b) investigation and task force activities,

(c) the enforcement of a valid judgement rendered by a court,

(d) rendering decisions on military matters and matters of military discipline, except those related to a person’s constitutional rights and freedoms,

(e) the appointment or dismissal by the President of Georgia of a person to or from the offices stipulated by the Constitution and the exercise of authority according to

Subparagraphs (a), (d), (e), (g), (h), and (n) of Paragraph 1 and Paragraphs 2, 4, and 5 of Article 73 of the Constitution of Georgia, and

(f) The implementation of international treaties and agreements and the pursuance of foreign policy.

#### **Article 4. Equality before law**

1. Everyone shall be equal before law and an administrative agency.
2. The restriction of or interference with the enjoyment of lawful rights, freedoms, and interests of any party to an administrative proceeding and preferential treatment or discrimination of any party in violation of law shall be prohibited.
3. Wherever circumstances of different cases are identical, judgements in regard to the persons involved shall be identical, except if there is a lawful ground for rendering a different judgment.

#### **Article 5. The exercise of authority pursuant to law**

1. An administrative agency may not perform any action that is against law.
2. The issuance of an administrative decree by an administrative agency or any action that restricts constitutional rights or freedoms shall be based on Chapter 2 of the Constitution of Georgia or applicable law or regulation.
3. The administrative decree issued in abuse of power and the action performed by an administrative agency in abuse of power shall be nullified.
4. The official of an administrative agency shall be held liable under law for the failure to duly perform his duties and the abuse of power.

#### **Article 6. The procedures for exercising discretionary power**

1. If an administrative agency enjoys discretionary power to solve any matter, it shall exercise discretionary power in compliance with law.
2. The exercise of discretionary power by an administrative agency shall be appropriate to the purpose for which it was granted to the agency.

#### **Article 7. The balance of public and private interests**

1. While exercising discretionary power, an administrative agency may not issue any administrative decree, if the harm inflicted by the latter upon the lawful rights and interests of a person substantially exceeds the benefits of the decree.

2. The measures prescribed by the administrative decree that was issued within discretionary power may not result in unreasonable restriction of a person's lawful rights and interests.

### **Article 8. Impartial resolution of a case**

1. An administrative agency shall exercise its authority impartially.
2. No public official shall participate in administrative proceeding, if he has any private interest or there is any other circumstance that may affect decision-making process.

### **Article 9. The right to legitimate trust**

1. An administrative agency shall protect a person's right to legitimate trust.
2. The promise of an administrative agency or its official to perform any action shall constitute the ground for legitimate trust.
3. Legitimate trust may not be invoked if it is based upon an illegal action committed by an interested party.
4. An illegal promise made by an administrative agency may not be invoked as the ground for legitimate trust.

### **Article 10. Openness**

1. Everyone may gain access to official documents kept by an administrative agency, and obtain a copy thereof, unless such documents contain state, professional, commercial, or private secrets.
2. The procedures for gaining access to and obtaining copies of the public information kept by an administrative agency are prescribed by Chapter 3 of this Code.
3. An administrative agency shall ensure open and public hearing of any issue in cases prescribed by law.

### **Article 11. Confidentiality**

1. No public official of any administrative agency may disclose or misuse secret or confidential information obtained during administrative proceeding. This prohibition may not be invoked as the ground for the dereliction of the responsibility stipulated by Article 10 of this Code.
2. The procedures for keeping official information confidential are prescribed by law.

## **Article 12. The right to apply to an administrative agency**

1. A person may apply to an administrative agency to solve the matters that fall within the area of responsibility of the agency and directly affect the applicant's rights and legal interests.
2. Unless otherwise prescribed by law, an administrative agency shall review the application pertaining to the matter that falls within the area of its responsibility, and render an appropriate decision.

## **Article 13. The right to be heard**

1. An administrative agency may review and solve a matter only if the interested party whose right or legal interest is restricted by the administrative decree has been enabled to present his opinion, except as provided by law.
2. The person specified in Paragraph 1 of this Article shall be notified of administrative proceeding and his participation in the case shall be ensured.

## **Article 14. The official language of administrative proceeding**

The official language of administrative proceeding shall be Georgian. Additional official language of administrative proceeding in Abkhazia shall be Abkhazian.

## **Article 15. Calculation of terms**

The official holidays prescribed by labor legislation shall be excluded from the calculation of the terms provided in this Code.

## **CHAPTER 2**

### **General Provisions On The Activities Of An Administrative Agency**

#### **Article 16. The obligation of mutual assistance between administrative agencies**

1. Within its authority and to the best of its ability, an administrative agency shall provide necessary legal assistance to another administrative agency upon a written request of the latter.
2. The legal assistance may not include:
  - (a) fulfilling a request of a higher or lower agency, and
  - (b) performing any action that is the responsibility of the administrative agency, as prescribed by law.

#### **Article 17. The terms and scope of legal assistance**

An administrative agency may seek assistance from another administrative agency if:

- (a) it is unable to perform the required action due to legal or factual reasons;
- (b) it is not familiar with necessary facts to perform the action and the other agency can provide information regarding those facts;
- (c) documents or any other proofs that are necessary to solve the matter are kept by the other agency;
- (d) the expenses required to perform the action exceed the expenses required to provide legal assistance by another agency.

### **Article 18. Refusal to provide legal assistance**

1. An administrative agency may refuse to provide legal assistance if:

- (a) it is beyond the scope of its statutory authority, or
- (b) providing the assistance undermines interests of state or local self-government and government agency, or interferes with the implementation of the obligations imposed upon the administrative agency in accordance with law.

2. If an administrative agency refuses to provide legal assistance, it shall inform the applicant agency in writing within three days.

3. Disputes regarding legal assistance between administrative agencies shall be settled by a common higher administrative agency. If such agency does not exist, the dispute shall be settled by a court.

4. A lawsuit may be filed in a court only after one administrative agency refuses to provide legal assistance to another agency in writing.

### **Article 19. Reimbursement of the expenses of legal assistance**

1. An administrative agency that seeks legal assistance shall reimburse the assistance-related expenses that exceed 50 laris.

2. If the cost of the legal assistance is expected to exceed 50 laris, the applicant agency shall be notified about it in advance.

### **Article 20. The right to certify a document**

1. An administrative agency may certify authentic copies of administrative acts or other documents issued by it or its subordinate body.

2. The copies of the documents issued or officially certified by an administrative agency are officially valid.
3. A document may not be certified if its content was changed or its integrity was violated.
4. A document shall be certified in the form of a certificate, which shall include the following information:
  - (a) exact title of the document,
  - (b) confirmation of the identity of the copy with the original,
  - (c) the place and time of certification, and
  - (d) the signature of a respective official and an official seal.
5. Each page of a certified copy shall be marked with an official seal and the signature of the official in charge.
6. The certification of an administrative act or any other document shall be registered with the administrative agency according to applicable procedures.

#### **Article 21. Public expert**

1. Public expert is an institution, which does not constitute a structural subdivision of any administrative agency and is authorized by law or applicable regulation to provide expert evidence on a draft administrative decree. A member of public expert agency is also referred to as an expert.
2. In cases provided by law an administrative agency shall seek an expert evidence from an expert agency or public expert.
3. An administrative agency shall provide an expert with all information required for expert evidence.
4. An expert shall present his evidence within the term determined by law or administrative agency.
5. Unless otherwise prescribed by law, the failure of an expert to present his evidence during the statutory term shall not delay the issuance of an administrative decree.
6. The identity of the expert who presented evidence on an administrative decree shall be indicated in the justification of the administrative decree.

#### **Article 22. Presenting an expert evidence**

1. A public expert agency shall perform its duties impartially and in good faith.

2. If a public expert fails to perform or duly perform his duties, he shall be held liable according to applicable legislation.

### **Article 23. Keeping information confidential**

A public expert may not disclose any confidential information that he became aware of during the execution of his duties. This obligation shall be valid even when the expert does not perform his official duties.

### **Article 24. Reimbursement of expenses**

All expenses incurred by a public expert during the execution of his duties shall be reimbursed to him. A respective administrative agency shall be informed in advance about the necessity of such expenses.

### **Article 25. The legal force of an expert evidence**

Unless otherwise prescribed by law, an administrative agency shall not be required to take into consideration the evidence of a public expert. Refusal to take into consideration an expert evidence shall be substantiated.

### **Article 26. The dismissal of a public expert**

A public expert shall be prematurely dismissed by the agency that made a decision to appoint him, if the expert:

- (a) commits gross dereliction of his duties,
- (b) fails to meet the requirements for his position, or
- (c) makes a personal statement refusing to present an evidence.

## **CHAPTER 3**

### **Freedom Of Information**

#### **Article 27. The definition of terms**

The terms used in this Chapter have the following meanings within this Chapter:

- (a) “Public agency” means a state or self-government agency or institution, or the person who exercises statutory authority on behalf of a public agency pursuant to law or contract, or artificial person of Public Law or Private Law that receives funding from the State Budget.

(b) “Corporate public agency” means a public agency that incorporates a governing or advisory board consisting of more than one public servant, and in which decisions are jointly made or prepared by more than one public servant.

(c) “Member of a corporate public agency” means a public servant who participates in decision-making of a corporate public agency with the right to vote.

(d) “Official” means the person indicated in Article 2 of the Law of Georgia on Conflict of Interests and Corruption in Public Service.

(e) “Session” means the hearing of a matter by members of an agency for the purpose of preparing or rendering a decision on behalf of the public agency.

(f) “Publicizing” means entry of public information into a public register in accordance with law and making public information accessible for the public.

(g) “Public database” means data that is systematically collected, processed and stored by a public agency or public servant.

(h) “Personal data” means public information that allows identification of a person.

(i) “Executive privilege” means the exemption of a public agency or public servant from the obligations stipulated by this Chapter.

#### **Article 28. Accessibility of public information**

Public information shall be open except as provided in applicable legislation, or when openness expressly and inevitably undermines:

(a) national security, but only if there is a reasonable presumption that the disclosure of such information will undermine the completion of a military, intelligence or diplomatic action that is planned or being implemented, or the physical safety of persons involved, or

(b) the investigation of a criminal offense, if there is a reasonable presumption that the disclosure of such information will undermine the identification of confidential sources of law-enforcement or intelligence agencies, interfere with the prevention, detection and elimination of an offense and prosecution of an offender, or endanger life and physical safety of any person or violate a suspect’s or defendant’s right to the secrecy of investigation, except when the decree regarding their search was issued.

#### **Article 29. Executive privilege**

Names of the public servants participating in the preparation of a decision by an official shall be protected from disclosure by means of the executive privilege.

#### **Article 30. The decision designating public information to be classified**

The decision designating public information to be classified may be rendered if law provides express requirement to protect such information from disclosure, establishes concrete criteria for such protection, and provides exhaustive list of classified information.

#### **Article 31. The extension of the term for keeping public information classified**

The decision designating public information to be classified or extending the term for keeping public information classified, except as provided in applicable regulation, may be rendered for the term of not more than five years. Such decision and the decision concerning the collection and processing of personal data shall be promulgated within three days after their adoption.

#### **Article 32. The openness of a session**

The session conducted by any corporate public agency shall be open and public, except as provided in Article 28 of this Code.

#### **Article 33. The procedure for publicizing secret information**

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 shall be publicized.

#### **Article 34. The private session of a public agency**

A corporate public agency shall publicly announce about forthcoming session, including its place and agenda a week ahead. If the agency decides to close the session, it shall make appropriate announcement. If the place, time or agenda of the session was changed, the agency shall immediately announce the changes. The agency shall publicize the results of the ballot regarding closing of a session and the protocol of decision.

#### **Article 35. Public register**

All public information kept by a public agency shall be entered into the public register. Reference to public information shall be entered into the public register within two days after its acquisition, creation, processing or publicizing, indicating its title and the date of receipt of the information, and the title or name of the natural or artificial person, public servant, or public agency, which provided the information or to which it was sent.

#### **Article 36. Ensuring the accessibility of public information**

A public agency shall designate a public servant who will be responsible for ensuring the accessibility of public information.

### **Article 37. Claim of public information**

Everyone may claim public information irrespective of its physical form or the condition of storage. Everyone may choose the form of receipt of public information, if there are various forms of its receipt, and gain access to the original of information. If there is the danger of damaging the original, a public agency shall provide access to the original under supervision.

### **Article 38. Accessibility of the copy of public information**

A public agency shall provide access to the copy of public information. No fees shall be charged for distributing public information, except for copying costs.

### **Article 39. Accessibility of personal information**

A person may not be denied access to the public information, which allows his identification, and which shall not be accessible to other persons according to this Code. A person may have access to his personal information that is kept in a public agency, and may obtain copies of such information free of charge.

### **Article 40. The decision on providing or denying access to public information**

1. A public agency shall render a decision on providing or denying access to public information immediately or not later than ten days, if responding to a claim for public information requires:

(a) the acquisition of information from its subdivision that operates in another area, or from another public agency, or processing of such information,

(b) the acquisition and processing of separate and large documents that are not interrelated, or

(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.

2. A public agency shall inform the applicant about the decision, its ground, and applicable regulation.

### **Article 41. Denying access to public information**

If access to public information was denied or the session of a corporate public agency was closed, the agency shall provide an applicant with information concerning his rights

and procedures for filing a complaint within three days after the decision is rendered. The agency shall also specify those subdivisions or public agencies, which provided their suggestions regarding the decision.

#### **Article 42. The information that may not be classified**

Everyone shall have access to information concerning:

- (a) the environment and hazard that constitutes a threat to life and health,
- (b) the fundamental principles and objectives of a public agency,
- (c) the description of the structure of a public agency, the procedures for assigning and dividing functions among public servants and decision-making procedures,
- (d) names and office addresses of those servants of public agencies, who hold important positions or are responsible for public relations,
- (e) the results of open ballots in a corporate public agency,
- (f) the election of a person to an elective office,
- (g) the results of auditing or inspection of the activity of a public agency and court materials on the cases where a public agency acted as a litigant,
- (h) the title and location of the public database of a public agency and the name and office address of the person responsible for the database,
- (i) the purpose, area of application and legal grounds for collecting, processing, storing and disseminating data by a public agency,
- (j) availability or non-availability of personal information of applicant in a public database, the procedures for gaining access to such information, including the procedures allowing the identification of a person, if the person or his representative filed the request to gain access to or modify personal information of the applicant,
- (k) the category of persons who may gain access to the personal information contained in a public database pursuant to law, and
- (l) the composition and sources of the data contained in a public database and the category of persons, concerning whom information is collected, processed and stored.

#### **Article 43. The procedures for processing personal data**

A public agency shall:

- (a) collect, process and store only those data that are expressly provided by law and are necessary for the proper functioning of the agency;

(b) develop and establish the program for controlling the conformity of collection, processing, storage and content of the data with statutory goals and terms;

(c) destroy the data that is unrelated to the statutory goal when demanded by a person or required by a court's decision; destroy inaccurate, unreliable, incomplete and irrelevant data and replace them with accurate, reliable, updated and complete data;

(d) store amended data, indicating the date of their use, together with original data for the period of their existence, but not less than five years;

(e) during the collection of personal information about any person obtain information directly from that person and other sources, only if all possibilities of obtaining information from an initial source were exhausted, except as provided in Article 28 of this Code, and only if the public agency is expressly authorized by law to collect, process and store personal data about persons of certain category;

(f) enter into a public register the information about the collection and processing of personal data and about the claim of data by a third person or a public agency; date, type and objective of a claim and the name/title and address of the applicant;

(g) immediately notify a concerned person at his current address of the claim of his personal data by a third person or a public agency, except as provided in Article 28 of this Code;

(h) before transferring personal data to another person/public agency take all reasonable measures for double-checking whether those data are accurate, relevant, updated and complete;

(i) during the collection, processing and storage of personal data inform a concerned person about the objectives and legal grounds for processing personal data, whether the person is required to provide personal information, the sources and composition of personal information and third persons who may gain access to it.

#### **Article 44. Confidentiality of personal data**

1. Personal data, except for those of an official, may not be accessible for anyone without the consent of the person concerned or reasoned decision of a court, as provided in Article 28 of this Code.

2. A court may render the decision declassifying personal data only if it is impossible to prove essential facts on the case on the basis of other evidence, and if all possibilities of obtaining this information from other sources were exhausted.

#### **Article 45. Accessibility of personal data**

Personal data may be accessible for the purpose of conducting a scientific research. This rule excludes the possibility of identifying a person.

#### **Article 46. The revision or destruction of data**

A person may demand the revision of data or the destruction of illegally obtained data. The burden of proof concerning the legality of collection of personal data shall rest with a public agency. Before the revision of public information a person's statement concerning inaccuracy of that information shall constitute public information and shall be attached to the public information. A public agency or public servant shall render a decision on this matter within ten days.

#### **Article 47. The nullification or amendment of a decision. Claim for damages**

1. A person may file a claim in a court demanding the nullification or amendment of the decision of a public agency or public servant, and claim material or non-material damages for:

(a) denying access to public information, partly or completely closing the session of a corporate public agency, or designating public information to be classified,

(b) the creation and processing of incorrect public information,

(c) the illegal collection, processing, storage and dissemination of personal data, or illegal furnishing of personal data to another person or public agency, or

(d) the infraction of other requirements of this Code by a public agency or public servant.

2. The burden of proof shall rest with the public agency or public servant that acts as a defendant in a court.

#### **Article 48. The request for classified information by a court**

A court may request for and review classified public information to investigate the legality of designating this information to be fully or partly classified.

#### **Article 49. Reporting**

On December 10 every year a public agency shall report to the Parliament and President of Georgia regarding:

(a) the number of requests to provide or modify public information provided to the agency and the number of decisions denying the requests,

(b) the number of decisions complying with or denying requests, the names of the public servants rendering those decisions and the decisions of corporate public agencies to close their sessions,

(c) the public databases and the collection, processing, storage, and furnishing of personal data by public agencies, and

(d) the number of violations of this Code by public servants and the imposition of disciplinary penalties upon officials.

#### **Article 50. The openness of previous public information**

Public information under Articles 28 and 29 of this Code, except for commercial, professional, and private secret, shall be open if created, sent or received before October 28, 1990. Such information may not allow the identification of persons indicated therein for life.

### **CHAPTER 4**

#### **Administrative Act**

##### **Article 51. The form of an administrative act**

1. An administrative act shall be issued in writing.
2. In urgent cases, when the delay may undermine state, public or private interests, an administrative act may be issued orally.
3. Upon the request of an interested party, or if an administrative act restricts lawful rights and interests of a person, or if expressly prescribed by law, an oral administrative act shall be issued in writing within three days.
4. An oral administrative act may not be affected by Articles 52-58 of this Code.

##### **Article 52. The content of an administrative act**

1. An administrative act shall include the following information:
  - (a) the type of the act,
  - (b) the title of the agency that issued the act,
  - (c) the title of the act,
  - (d) full name and signature of the official in charge,
  - (e) the date and place of the issuance of the act, and
  - (f) the reference number of the issuing agency.
2. An administrative act shall include reference to the institution, where a complaint against the act may be filed, including the address of the institution and the deadline for filing a complaint (or lawsuit).

3. The administrative act issued by a state agency of Georgia shall be marked with the state symbol. The administrative act issued by local self-government and government agencies shall be marked with respective symbols, if applicable.

### **Article 53. The justification of an administrative decree**

1. An administrative decree shall include a written justification.
2. In the decree regarding an administrative infraction, the justification shall precede a conclusive section.
3. An administrative decree shall include reference to an applicable normative act or regulation, which constitutes the ground for its issuance.
4. If during the issuance of an administrative decree an administrative agency acted within its discretionary authority, the written justification shall include reference to all factual circumstances that were substantially important for the issuance of the decree.
5. An administrative agency may not ground its decision on the circumstances, facts, evidence, or arguments that have not been examined and analyzed during the administrative proceeding.
6. If applicable legislation requires expert evidence to issue an administrative decree, the written justification shall include the content of that evidence.
7. The written justification shall be promulgated (provided for official notification) together with the administrative decree.
8. In urgent cases an administrative decree may be issued or promulgated without a written justification. In such cases the written justification shall be promulgated or provided for official notification within one week after the promulgation or official notification of the decree.

### **Article 54. The entry into force of an administrative act**

1. Unless otherwise prescribed by law, an administrative act shall enter into force upon the official notification of a party, or the promulgation of the act.
2. In cases prescribed by law, an administrative act may enter into force before its promulgation or official notification, if delay may substantially undermine state or public interests, prevention or investigation of an offense, or rights or lawful interests of a person.
3. An administrative act that was mailed to an interested party shall enter into force not later than seven days after its mailing, except if the interested party did not receive the act.
4. In case of the dispute regarding delivery of the administrative act, the burden of proof shall rest with the administrative agency.

### **Article 55. The promulgation of an administrative act**

1. An administrative act shall be promulgated only when required by law.
2. In case when an administrative act concerns more than 50 persons, the official notification may be replaced with promulgation. In such case the administrative act shall be provided for official notification only to the applicant. If the application is signed by several persons, the act shall be provided to the person whose signature comes first.

### **Article 56. The procedure for promulgating an administrative act**

1. An administrative act shall be promulgated in the official gazette of a respective administrative agency.
2. If the agency does not publish an official gazette, the act shall be promulgated in the periodical, which is distributed within the territory of the jurisdiction of the administrative agency, and is published at least once a week. Otherwise, the act shall be publicly announced.
3. An administrative agency shall define the procedures for promulgating or publicly announcing the administrative act beforehand, as provided in Paragraph 2 of this Article.

### **Article 57. Public announcement**

Public announcement shall mean posting an administrative act in the building of the administrative agency, at the place that is accessible to everyone. If necessary, the act shall be publicly announced in other public places as well.

### **Article 58. The procedure for official notification of an administrative act**

1. Unless otherwise prescribed by law, the official notification of an interested party of an administrative act shall mean providing him with a copy of the act or sending it to him by mail.
2. If the administrative act that was mailed to a person could not reach the recipient, the person may obtain a copy of the act from the administrative agency. No fee shall be charged for providing a copy of an administrative act.

### **Article 59. The correction of errors in an administrative act**

1. An administrative agency may correct technical and calculation errors in the administrative act issued by it.
2. The substantial correction of an administrative act shall mean the issuance of a new administrative act.

3. The corrections of errors shall be promulgated or provided for official notification pursuant to the procedures for promulgating and providing for official notification of an administrative act.

#### **Article 60. The nullification of an administrative decree**

1. An administrative decree shall be nullified, if:

(a) it was issued by an incompetent institution or official,

(b) its implementation would result in an offense,

(c) its implementation is impossible due to factual reasons, or

(d) it contravenes law, or if the statutory procedures of its preparation or promulgation were substantially violated.

2. The substantial violation of the procedures for the preparation and promulgation of an administrative decree means the violation of law, lack of which would result in a different decision.

3. An administrative decree may be nullified by the administrative agency that issued it.

4. An empowering administrative act may not be nullified if an interested party shows reasonable reliance upon the administrative decree, except when the decree substantially undermines the lawful rights or interests of the State, public or any person.

5. The reasonable reliance of an interested party may be invoked if he performed an action of legal importance on the basis of the administrative decree, and if the nullification of the decree will inflict substantial harm upon him.

6. If the empowering administrative decree that violates the rights or interests of other entities was declared null and void, in the event of circumstances stipulated in Paragraph 5 of this Article all material damages suffered by the interested party as a result of the nullification of the administrative decree shall be redressed on the basis of the protection of private and public interests.

7. The nullification of an administrative decree shall mean the elimination of the legal consequences of its enforcement.

8. In case of the nullification of an administrative decree a person may seek the recovery of funds or other property, which was paid or transferred to a state or local self-government and government agency. If such recovery is impossible, he shall be granted appropriate and full redress.

9. If a person received any property or favor on the basis of a void administrative decree, he shall return it in compliance with Articles 976-991 of the Civil Code of Georgia.

6. An administrative decree shall be declared null and void in accordance with the procedures for the adoption of an administrative decree.

## **Article 61. The invalidation of an administrative decree**

1. The administrative agency that issued an administrative decree may declare it invalid.
2. An administrative agency may not invalidate the empowering administrative decree that was issued in compliance with law, except when:
  - (a) the invalidation is expressly required by law or the regulation that was adopted by a higher agency pursuant to law,
  - (b) the invalidation is expressly required by the administrative decree in accordance with law,
  - (c) the interested party failed to perform the obligation prescribed by the administrative decree, which may constitute the ground for declaring the decree invalid,
  - (d) the respective normative act was revoked or amended, thus depriving the administrative agency of possibility to issue the decree, and when the decree may inflict substantial harm to state and public interests,
  - (e) there is a newly discovered circumstance or scientific or technical discovery or invention, which deprive the administrative agency of possibility to issue the decree, and when the decree may inflict substantial harm to state and public interests.
3. An administrative decree shall be declared invalid in accordance with the procedures for the adoption of an administrative decree.
4. In cases provided in Subparagraphs (d) and (e) of Paragraph 2 of this Article an interested party, which suffered harm, may seek redress upon his claim if he had the cause for reasonable reliance towards the administrative decree.
5. The amount of the redress shall be determined on the basis of the balance of private and public interests by the administrative agency, which invalidated the administrative decree.
6. Invalidation means termination of the validity of an administrative decree from the day of its invalidation.
7. The invalidation of an administrative decree may not result in the elimination of the legal consequences that developed before the invalidation of the decree.

## **Article 62. The nullification or invalidation of a part of an administrative act**

1. A part of an administrative decree shall be nullified or invalidated in compliance with Articles 60 and 61 of this Code.
2. The nullification or invalidation of a part of an administrative decree may not result in the nullification or invalidation of other parts of the decree.

### **Article 63. The amendment of an administrative act**

1. The administrative agency that issued an administrative act may amend it.
2. An administrative act shall be amended in accordance with the procedures for the preparation and adoption of an administrative decree.

### **Article 64. The right to retrieve a document**

After the nullification or invalidation of an administrative act, the respective administrative agency may retrieve from a person any document, which was provided to him on the basis of the administrative act, or which certifies any right.

## **CHAPTER 5**

### **Administrative Contract**

#### **Article 65. The right of an administrative agency to enter into an administrative contract**

1. In private legal relations an administrative agency shall act as the subjects of Civil Law.
2. Whenever an administrative agency enters into an administrative contract, the respective norms of the Civil Code and additional requirements under this Chapter shall apply.

#### **Article 66. Special requirements for an administrative contract**

1. In civil relations an administrative agency shall act only within the scope of its authority, as prescribed by law.
2. The administrative contract entered into by an administrative agency may not contravene the Constitution of Georgia and applicable legislation.
3. An administrative contract may not violate human rights and freedoms set forth in Chapter 2 of the Constitution of Georgia.

#### **Article 67. The involvement of a third party in the conclusion of an administrative contract**

1. The administrative contract that restricts the rights of a third party or imposes any obligation upon him shall take effect only after the third party presents his written consent.
2. Prior to the entry into an administrative contract, the administrative agency shall inform the third party whose interests will be affected by the contract.
3. The interested party stipulated in Paragraphs 1 and 2 of this Article may present his opinion before the conclusion of an administrative contract.

#### **Article 68. The consent of another administrative agency**

The administrative contract that was concluded in lieu of issuing an administrative act shall take effect after receiving the written consent of the respective administrative agency, as prescribed by law.

#### **Article 69. The form of an administrative contract**

Unless otherwise prescribed by law, an administrative contract shall be concluded only in writing.

#### **Article 70. The nullification of an administrative contract**

1. The contract entered into by an administrative agency shall be nullified in compliance with the Civil Code of Georgia.
2. The nullification of the administrative act that constitutes the ground for the conclusion of a contract shall result in the nullification of the latter.

#### **Article 71. The amendment of an administrative contract**

1. In case of substantial change of circumstances that inflicts harm upon a party to a contract or upon public interest, the party may seek the other party's consent to amend the contract.
2. If the amendment to the contract substantially conflicts with the content of the contract, a party may demand the nullification of the contract.

### **CHAPTER 6**

#### **The General Provisions Of Administrative Proceeding. Common Administrative Proceeding**

## **Article 72. The types of administrative proceeding**

1. The types of administrative proceeding are as follow:

- (a) common administrative proceeding,
- (b) formal administrative proceeding, and
- (c) public administrative proceeding.

2. If law does not require the resort to other type of administrative proceeding, an administrative agency shall draft an administrative act through common administrative proceeding.

## **Article 73. The parties to an administrative proceeding**

1. The parties to an administrative proceeding shall include an administrative agency or a natural or artificial person.

2. An administrative proceeding shall be conducted by an authorized administrative agency.

3. An administrative proceeding shall be conducted in Georgian. An administrative proceeding within the territory of Abkhazia may be conducted in Abkhazian as well.

4. If the application/statement or any other document presented by an interested party is not in the state language, the party shall present a notarized translation of the document within the term defined by an administrative agency.

5. If law provides for a term within which an administrative agency shall perform a certain action, the term shall commence only after receiving the translation, if applicable.

6. If law provides for a term within which an interested party shall present any application/statement or document, the term may not elapse even if the document was presented in an unofficial language.

7. An administrative agency may establish a fixed term for translating the presented document, which shall not be less than three days. The expiration of this term may be invoked to deny the review of the application/statement of an interested party.

## **Article 74. Administrative capability**

1. Unless otherwise prescribed by law, the capability of the parties to an administrative proceeding shall be regulated by Articles 12-26 of the Civil Code of Georgia.

2. In an administrative proceeding, an administrative agency shall be represented by an official in charge or the official representative of the agency.

#### **Article 75. The party to an administrative proceeding**

Pursuant to this Code, the parties to an administrative proceeding shall include:

- (a) an applicant,
- (b) the administrative agency that is authorized to render a decision on the matter,
- (c) the entity that is authorized to participate in an administrative proceeding in compliance with applicable legislation,
- (d) another administrative agency, when required by applicable legislation, and
- (e) an interested party.

#### **Article 76. The commencement of an administrative proceeding**

1. The grounds for commencing an administrative proceeding shall include:

- (a) the application of an interested party, and
- (b) the statutory obligation of an administrative agency to issue an administrative act.

2. In cases provided in Subparagraph (a) of Paragraph 1 of this Article, an administrative proceeding shall commence after the registration of the application.

#### **Article 77. Filing an application**

1. Unless otherwise prescribed by law, an application shall be filed in the administrative agency that is authorized to solve the matter provided in the application and issue an appropriate administrative act.

2. Unless otherwise prescribed by law or applicable regulation, the procedures for presenting an application and attached documents or any other information shall be defined by the provision/regulation of the administrative agency.

#### **Article 78. The content of an application**

1. An application shall be in writing and shall include the following information:

- (a) the title of the administrative agency to whom the application was submitted,
- (b) the title/name and address of the applicant,
- (c) the claim,
- (d) the date of submission and the signature of the applicant, and

(e) the list of attached documents, if any.

2. All documents that are required by law shall be attached to the application.

3. An applicant may submit to a respective administrative agency all other documents that may be invoked as the ground for issuing the administrative act sought by the applicant.

#### **Article 79. The registration of an application**

1. An administrative agency shall register an application upon its receipt and mark it with the date and number of registration, as provided in applicable procedures.

2. Upon the request of an applicant, an administrative agency shall immediately send (provide) to the applicant confirmation of the registration of his application.

#### **Article 80. Referring an application to an applicable administrative body**

1. If the issuance of the administrative decree stipulated in the application falls within the jurisdiction of another administrative agency, an administrative agency shall refer the application and all attached documents to the applicable administrative agency within five days.

2. Unless otherwise prescribed by law, referring an application to the applicable state agency shall not be accompanied by the expression of any opinion regarding the matters set forth in the application.

3. The applicant shall be informed in writing about the reference of the application and attached documents to the applicable administrative agency with an appropriate justification within two days.

4. If the matter set forth in the application falls within the jurisdiction of a court, or if the applicable administrative agency cannot be determined, the administrative agency shall return the application with an appropriate justification to the applicant within five days after its submission.

5. The statutory term for submitting an application may not elapse even if a person filed an application in an inapplicable administrative agency.

#### **Article 81. The prohibition to establish unlawful requirements**

1. An administrative agency may not require an applicant to present any other additional documents or information, except those required by law.

2. The review of an application may not be suspended or denied due to the grounds set forth in Paragraph 1 of this Article.

**Article 82. The procedures for presenting documents containing commercial, professional or private secret**

An applicant may require the protection of the information containing commercial, professional or private secret, if he seeks to keep such information confidential.

**Article 83. Presenting additional information. Ignoring an application**

1. An administrative body shall examine the compliance of an application with the requirements set forth in Article 78 of this Code within three days.
2. If an applicant fails to provide an administrative agency with any document or other information required by law or regulation, which is necessary to solve the matter, the agency shall set the term for providing additional document or information.
3. Unless otherwise prescribed by law, the term for providing additional document or other information shall be not less than five days. Upon a request of the applicant, the administrative agency may establish one-time extension of the term up to 15 days.
4. Unless otherwise prescribed by law, the elapsing of term for reviewing an application shall be suspended until the submission of the additional document or other information.
5. If an applicant fails to provide required document or information within a fixed term, the administrative agency may ignore the application.
6. The term for reviewing an application shall resume elapsing upon the submission of required document or information.

**Article 84. The involvement of another administrative agency in an administrative proceeding**

1. Within five days after the receipt of the application and attached documents, the administrative agency shall send their copies to another administrative agency and public expert, which is authorized by law to participate in an administrative proceeding.
2. If applicable legislation does not provide for any other term, the administrative agency and/or public expert shall present its opinion within two weeks.
3. Unless otherwise prescribed by law, the failure of the administrative agency and/or public expert to present opinion or presenting a negative opinion may not delay the review of the application and the resolution of the matters provided therein.

**Article 85. The obligation of an administrative agency to render legal assistance**

An administrative agency shall explain to an interested party his rights and obligations, the procedure for reviewing an application, the type and term of proceeding and the requirements for applications or complaints, and shall refer to any errors made in the application.

#### **Article 86. The right to proxy**

1. Everyone may interact with an administrative agency through a proxy and enjoy the assistance of a lawyer.
2. An administrative agency may require a proxy to present the document certifying his status.
3. An administrative agency may not require an interested party to interact with the agency through a proxy, except as expressly prescribed by law.

#### **Article 87. A proxy in an administrative proceeding**

1. If an applicant or other interested party appoints a proxy, an administrative agency shall provide the latter with all documents needed for the interested party.
2. Unless otherwise prescribed by law, an administrative agency shall refer to a proxy regarding every issue of administrative proceeding.
3. An interested party that is represented by another person shall be authorized to attend all oral hearings.

#### **Article 88. The obligation to appoint a proxy**

1. The interested party to an administrative proceeding shall appoint a capable person who is registered at a certain address in Georgia to act a proxy of the party, if the party has no domicile in Georgia, or if he is registered without the reference to his address. The proxy shall be appointed within three days after being required so by a respective administrative agency. The proxy shall be provided with all necessary documents.
2. If a person fails to meet the requirement stipulated by Paragraph 1 of this Article, the administrative agency shall be exempted from the obligation to provide documents, and this shall not be invoked as the ground for nullifying an administrative act, except as prescribed by law.

#### **Article 89. Mandatory appointment of a proxy by an applicant**

1. If an application was filed by more than 25 persons, within the term set by an administrative agency the signatories shall appoint one proxy, who will be authorized to interact with the administrative agency.

2. Only a natural person may be appointed a proxy.
3. If a proxy refuses to exercise his authority, the administrative agency shall set a new term for appointing a new proxy.

**Article 90. The appointment of a proxy at the initiative of an administrative agency**

1. An administrative agency shall request a court to appoint a proxy to an interested party, if the participation of the proxy in an administrative proceeding is mandatory and if the interested party failed to appoint him within the term set by the administrative agency.
2. If the persons stipulated by Paragraph 1 of Article 89 of this Code fail to appoint a proxy within the term set by the administrative agency, the first signatory to their appeal shall be considered a proxy.

**Article 91. Reimbursement of the expenses of a proxy**

The proxy appointed by an administrative agency may seek from the agency remuneration and the reimbursement of all expenses related to the administrative proceeding.

**Article 92. The prohibition to participate in an administrative proceeding**

1. No official of any administrative agency shall participate in an administrative proceeding, if:

- (a) he has a personal interest in favor of any party;
- (b) he is a relative of an interested party or its proxy;
- (c) he acts as a proxy to an interested party;
- (d) he acted as an expert on a given issue;
- (e) he is engaged in a labor relation with an interested party;
- (f) he or any member of his family owns stocks of or a share in an authorized capital of the enterprise that acts as an interested party.

2. Under this Code, relatives include:

- (a) a spouse, spouse's siblings and lineal relatives,
- (b) siblings of ascendants, and
- (c) siblings and their spouses and children.

3. An official shall notify a higher official of the circumstances stipulated by Paragraph 1 of this Article and his recusation. The application for recusation shall be reviewed pursuant to the procedures prescribed by Article 93 of this Code.

### **Article 93. The application for challenge**

1. The interested party to an administrative proceeding who believes that there is the ground to challenge the official of an administrative agency involved in the proceeding may challenge him in writing prior to the issuance of the administrative act, as prescribed by Article 91 of this Code.

2. The application for challenge shall be reasoned/justified.

3. The application for challenge shall be reviewed and decision regarding the challenge or recusation shall be rendered by the official, who acts as a supervisor to the challenged official. If the latter does not have a supervisor, the decision shall be rendered by the chief of a higher agency.

4. The decision regarding the challenge of the official, who acts as a member of a corporate agency, shall be rendered by the corporate agency without the participation of the challenged official.

5. An interested party to an administrative proceeding shall file the application for challenge within two days after he became aware of the fact or circumstance that could be invoked as the ground for challenge.

6.

### **Article 94. Terms in an administrative proceeding. Restoration of elapsed term**

1. The procedures prescribed by Articles 59-69 of the Civil Code of Georgia shall apply to the calculation of terms in an administrative proceeding.

2. If an interested party is required to comply with the fixed term, the latter shall start elapsing after providing the interested party with an appropriate document or information, or upon promulgation of this information.

3. Elapsed term shall be restored if an interested party allowed elapsing of the term defined by law or administrative agency on some reasonable ground, such as illness, force-major, by reason of an administrative agency or other justifiable excuse.

4. An interested party may request an administrative agency in writing to restore an elapsed term not later than 15 days after the elimination of the circumstances stipulated by Paragraph 3 of this Article. The appropriate documents and materials certifying justifiable excuses for elapsing the term shall be attached to the application.

5. The administrative agency shall review the application for the restoration of the elapsed term within five days.

6. The administrative agency may restore the term, which elapsed due to a justifiable excuse, even if it was initially set by the same agency, if it is not prohibited by law and does not undermine the rights or legal interests of a third party.

#### **Article 95. The involvement of an interested party in an administrative proceeding**

1. An administrative agency may involve an interested party in an administrative proceeding upon the request of the latter, and ensure his participation in the proceeding in cases prescribed by law.

2. An administrative agency shall inform an interested party about the commencement of an administrative proceeding, if the administrative act may deteriorate the legal status of the party, and shall ensure his participation in the proceeding.

3. Unless otherwise prescribed by law, an administrative agency shall involve in an administrative proceeding any person upon his request, if the person is authorized to participate in the proceeding.

4. If the number of persons authorized to participate in an administrative proceeding exceeds 50, an administrative agency can officially publicize the information about the proceeding instead of serving notice to each of above-referenced persons.

5. The notice regarding the administrative proceeding shall include the following information:

(a) the title and address of the administrative agency, where the proceeding is conducted,

(b) the date of the commencement of the proceeding,

(c) identities of interested parties to the proceeding, and

(d) the term for publishing the administrative act.

6. In urgent cases, when delaying the issuance of an administrative act may substantially undermine public or private interests, an administrative agency may render the decision regarding the issuance of the act without complying with Paragraphs 1 and 2 of this Article.

#### **Article 96. The investigation of the circumstances of a case**

1. During an administrative proceeding, an administrative agency shall investigate all important case-related circumstances and render the decision through the evaluation and comparison of those circumstances.

2. The issuance of an administrative act may not be based upon the circumstance or fact that were not investigated by an administrative agency pursuant to applicable procedure.

3. An administrative agency may not deny the application or request/motion regarding the matter that falls within its jurisdiction, without an advance investigation, on the ground that the application or request is not reasoned.

4. An interested party shall cooperate with an administrative agency during the administrative proceeding, as prescribed by law.

5. An interested party shall appear in an administrative agency and provide an explanation only when expressly required by law.

#### **Article 97. The examination of evidence during an administrative proceeding**

1. Based on the circumstances of a case, an administrative agency may:

(a) request documents,

(b) collect information,

(c) hear statements of interested parties,

(d) visit and examine the scene of the incident,

(e) appoint expert examination,

(f) use necessary document and acts, and

(g) take other applicable measures to collect, inspect, and evaluate evidence.

2. A witness or expert shall provide an administrative agency with explanation only in cases expressly prescribed by law. Explanation shall be sought pursuant to the Civil Procedure Code of Georgia.

#### **Article 98. The right of an interested party to present his opinion**

1. An interested party to an administrative proceeding may present evidence and the request/petition to investigate the circumstances of a case.

2. Within two days the administrative agency shall render one of the following decisions regarding the request:

(a) comply with the request, or

(b) deny the request.

#### **Article 99. The right to access the materials of an administrative proceeding**

1. An interested party to an administrative proceeding may access the materials of an administrative proceeding, except for interdepartmental documents that are directly related to the preparation of an administrative act.
2. Except as prescribed by law, an interested party to an administrative proceeding may not gain access to the materials containing state, commercial, professional or private secret, if the interest of privacy is more important than the lawful right to access the document.
3. An interested party may access the materials of an administrative proceeding at the administrative agency that conducts the proceeding.
4. In special cases, by filing a written request an interested party may access the materials of an administrative proceeding at another administrative agency or Georgian consulate based in another state.
5. An interested party to an administrative proceeding may seek copies of the documents and other materials of an administrative proceeding.
6. No fees shall be charged or obstacles created for obtaining a copy, copying or mailing a document or other material, except for legally permissible payment.

#### **Article 100. Decision-making**

1. Unless otherwise prescribed by law or applicable regulation, an administrative agency shall decide to issue or not to issue an administrative act within one month after an application is filed.
2. Unless otherwise prescribed by law, the administrative act that affects the interests of a third party shall be issued within 15 days after an application is filed.
3. If the discovery of vital case-related circumstances requires the extension of the term prescribed by applicable legislation for issuing an administrative act, the administrative agency shall set the term for issuing the act upon the commencement of the administrative proceeding.
4. In cases stipulated by Paragraph 3 of this Article, the entire term for issuing an administrative act shall not exceed three months.

#### **Article 101. The submission of opinion by an applicant upon the denial to issue an administrative act**

1. Before issuing the administrative act denying to comply with an application, the administrative agency shall enable the applicant to present his opinion regarding arguments against the application, if:

(a) the denial is based upon the information about the applicant, or

(b) the information constituting the ground for the denial differs from that submitted by the applicant.

2. If law or applicable regulation prescribes no other term, an applicant shall present his opinion regarding the circumstances stipulated by Paragraph 1 of this Article within five days.

3. The requirement stipulated by Paragraph 1 of this Article may not apply in the event when the applicant has already presented his opinion regarding above-referenced circumstances, or in urgent cases when delay in the issuance of an administrative act may substantially undermine public interest. In such cases the administrative agency shall refer to the urgent circumstances.

**Article 102. The procedure for the repeated submission of an application regarding the same matter**

1. The application regarding the matter, about which an administrative agency already issued an administrative act denying an application or complaint, may be filed only if the factual or legal condition that constituted the ground for the issuance of the act was changed in favor of the applicant, or if there are some newly discovered circumstances (evidence) that allow the issuance of the requested act.

2. If the application does not include the reference to the newly discovered circumstances, the administrative agency shall issue the administrative act denying the application without reviewing it. The act shall include the reference to the statute that was invoked as the ground for denying the application.

**CHAPTER 6**

**ADMINISTRATIVE PROCEEDING IN A CORPORATE ADMINISTRATIVE AGENCY**

**Article 103. The procedures for administrative proceeding in a corporate administrative agency**

1. Unless otherwise prescribed by law, an administrative proceeding in a corporate administrative agency shall be conducted pursuant to the procedures prescribed by Chapter 4 of this Code and provisions prescribed by this Chapter.

2. Unless otherwise prescribed by law or applicable regulation, the decision regarding the application filed in a corporate agency shall be rendered by the latter. Exception from this rule is the right of the senior official of a corporate administrative agency to refer the application to an appropriate administrative agency or return it to the applicant, if the matters addressed by the application do not fall within the jurisdiction of the corporate administrative agency.

**Article 104. The procedures for conducting the session of a corporate agency**

1. The session of a corporate administrative agency shall be opened and closed by the head of the agency. During his absence, the session shall be opened and closed by the chairperson of the session, who was appointed (elected) pursuant to applicable legislation.

2. The chairperson of a session shall conduct it according to the agenda.

#### **Article 105. Quorum**

1. All members of a corporate administrative agency shall be invited to its session.

2. A corporate administrative agency may render a decision if its session is attended by more than half of its members, but not less than three members.

3. The decision of a corporate administrative agency shall be deemed valid if it was upheld by more than a half of attending members, except as otherwise prescribed by law.

#### **Article 106. The minutes of the session of a corporate administrative agency**

1. Minutes shall be produced at each session of a corporate administrative agency, including the following information:

(a) the title of the agency,

(b) the time and place of the session,

(c) the identities of the chairperson and members of the session,

(d) subject matter,

(e) the results of voting, and

(f) decision.

2. The minutes of a session shall be signed by the chairperson of the session and the secretary, only if the latter contributed to the minutes.

### **CHAPTER 8**

#### **Formal Administrative Proceeding**

#### **Article 107. The issuance of an administrative act through a formal administrative proceeding**

An administrative act may be issued through a formal administrative proceeding only when expressly provided by law.

**Article 108. The involvement of an interested party in a formal administrative proceeding**

1. Unless otherwise prescribed by law, an administrative agency shall notify all interested parties of the commencement of a formal administrative proceeding and shall ensure their participation.
2. Unless otherwise prescribed by law, the denial of an interested party to participate in an administrative proceeding may not suspend the proceeding.
3. An interested party shall be provided with an opportunity to present his opinion or request concerning all circumstances of the proceeding.

**Article 109. Witnesses and experts in a formal administrative proceeding**

1. In a formal administrative proceeding a witness shall testify and an expert shall provide his evidence.
2. A court shall render a decision regarding the legality of the denial to provide testimony or expert evidence.
3. An interested party shall be provided with an opportunity to express his opinion regarding expert evidence or the testimony of a witness.
4. An interested party may attend the interrogation of a witness or expert, ask them questions, gain access to the written evidence of an expert, and attend the inspection of the incident scene.
5. An interested party shall reimburse the witness and expert invited by it for the expenses incurred.

**Article 110. Oral hearing**

1. The decision of an administrative agency shall be based only upon an oral hearing.
2. Interested parties shall be notified of an oral hearing at least seven days before its commencement and shall be invited to the hearing.
3. The invitation shall include the reference to the power of an administrative agency to review and solve the case without the participation of interested parties, except as prescribed by law.
4. If the number of interested parties exceeds 50, the administrative agency may invite interested parties by publishing a notice in an official periodical. The notice shall include the reference to the subject matter of the hearing, the title of the administrative agency conducting the hearing, the ground for commencing the administrative proceeding and the time and place of the hearing.

5. An oral hearing shall not last more than one business day.

#### **Article 111. The procedures for conducting an oral hearing**

1. The sessions of an oral hearing shall be public. The chairperson of the session may close it for the purpose of protecting state, commercial, professional or private secrets of parties.

2. The session shall be opened and presided over by an authorized official.

3. The participation in an oral hearing shall be permitted for the authorized officials of an administrative agency, representatives of higher agency, interested parties, and the experts and witnesses invited to the hearing.

4. The chairperson of a session shall ensure the investigation of important case-related circumstances during an oral hearing and shall enable any attending interested party to express his opinion regarding the case.

5. An interested party may submit a motion regarding the investigation of important case-related circumstances.

6. The chairman of a session shall ensure maintenance of order during the session. He may give a warning to a person who disrupts order, and in special cases may dismiss him from the session hall.

7. A session may continue without the participation of the dismissed person.

#### **Article 112. The minutes of the session of an oral hearing**

1. Minutes shall be produced during the session of an oral hearing.

2. The minutes of the session shall include:

(a) the title of the administrative proceeding that is the subject of the hearing,

(b) the title of the administrative agency,

(c) the time and place of the hearing,

(d) the identities of the chairperson of the session, interested party, expert, and witness participating in the oral hearing,

(e) the subject matter of the hearing and the brief review of the applications submitted,

(f) the brief description of the expert evidence and the testimonies of witnesses, and

(g) the description of the results of a site visit.

3. The minutes of a session shall be signed by the chairperson and secretary of the session.

4. An interested party may access the minutes.

#### **Article 113. The issuance of an administrative act**

1. If law prescribes no other term, an administrative act shall be issued within five days after the commencement of an oral hearing.

2. An interested party shall be provided with an administrative act pursuant to the procedures prescribed by this Code.

#### **Article 114. Formal administrative proceeding by a corporate agency**

1. If a formal administrative proceeding is conducted in a corporate agency, all members of the agency may ask questions regarding the circumstances of the case.

2. Only those members of the corporate agency who participated in the oral hearing of the case may vote for the adoption the administrative act.

### **CHAPTER 9**

#### **Public Administrative Proceeding**

#### **Article 115. The issuance of an administrative act through a public administrative proceeding**

1. An administrative act shall be issued according to the procedures prescribed by this Chapter only when expressly required by law.

2. An administrative act may also be issued on the basis of a decision of an administrative agency, pursuant to the procedures prescribed by this Chapter, when it concerns the interests of a broad group of people.

3. In cases stipulated by Paragraph 2 of this Article, a decision shall be made by the responsible official of an administrative agency with the consent of (an official of) a higher administrative agency.

#### **Article 116. Publishing of the notice regarding submission of document for public access**

1. An administrative agency shall publish the notice regarding the submission of documents for public access, as prescribed by this Code.

2. The notice shall include reference to:

(a) the title and address of the administrative agency where the administrative proceeding is held. If materials of the proceeding can be accessed in another administrative agency, the title and address of the latter shall be included in the notice,

(b) the summary of the decision of the administrative agency regarding the application and/or commencement of the administrative proceeding,

(c) the term for issuing the administrative act, and

(d) the term for presenting private opinions.

### **Article 117. The list of the documents to be presented for public access**

1. The following documents shall be presented for public access:

(a) an application with attached documents and the decision of an administrative agency regarding the commencement of the administrative proceeding,

(b) the evidence/conclusion or opinion that was presented to the administrative agency in regard to above-referenced application, and

(c) the list of the documents that are not presented for public access.

2. Everyone may access the documents presented for public access in the administrative agency where the public administrative proceeding is conducted. In cases prescribed by law or on the basis on the reasoned decision of the administrative agency, the documents of the public administrative proceeding may be presented for public access in another administrative agency upon the consent of the latter.

3. Everyone may obtain copies of the documents presented for public access.

### **Article 118. The procedures for presenting a private opinion**

1. Everyone may present a private opinion in writing within 20 days after the submission of the application regarding the issuance of an administrative act or after presenting a draft administrative act for public access.

2. A person may present a private opinion anonymously. This right shall be referred to in the notice regarding the submission of document for public access.

3. An administrative agency shall mark the document with a registration date.

4. An administrative agency shall refer opinions presented by persons to respective administrative agencies and public expert within one day after the registration of the opinions.

### **Article 119. The drafting and submission of an administrative act for public access**

1. If no other term is prescribed by law or applicable regulation, an administrative agency shall draft an administrative act within one month from the registration of the application.

### **Article 120. Oral hearing. The issuance of an administrative act**

1. An oral hearing shall be conducted during a public administrative proceeding, where the provisions prescribed Articles 110-112 of this Code shall be applied. An administrative agency shall issue an administrative act within 10 from the commencement of the oral hearing.

2. If law or applicable regulation provides for the postponement of the term for issuing an administrative act, the administrative agency shall make an advance announcement about the postponement of the term.

### **Article 121. The promulgation of an administrative act**

The administrative act that was issued through public administrative proceeding shall be promulgated.

## **CHAPTER 10**

> [Removed on September 9, 1999, under the Law of Georgia No. 2372-IS]

## **CHAPTER 11**

### **The Procedures For The Issuance Of An Administrative Act By An Independent Agency**

#### **Article 158. The obligation of an independent agency to issue an administrative act**

1. An administrative act shall be issued only by an independent agency upon:

- (a) the issuance of a concession, if its price exceeds 250,000 laris,
- (b) rendering the decision on the privatization of the State (municipal) property (enterprise), if its price exceeds 100,000 laris,
- (c) rendering the decision regarding the distribution of telecommunication frequencies.

[As amended on September 9, 1999, under the Law of Georgia No. 2372-IS]

2. Law may require an independent agency to issue other types of administrative acts as well.

3. An independent agency shall issue an administrative act in accordance with the procedures prescribed for administrative proceedings by this Code.

4. The requirements set forth in Articles 8 and 69 of this Code shall apply to independent agencies.

**Article 159. The establishment of an independent agency**

5. An independent agency may consist of one or several natural or artificial persons who possess appropriate qualification and can ensure impartial decision-making.

6. An independent agency shall be established through open tender by the administrative agency that is competent to make such decisions.

**Article 160. The establishment of an independent agency by the President of Georgia**

The President of Georgia may establish an independent agency to solve an administrative complaint.

**Article 161. The inadmissibility of filing an administrative complaint**

No administrative complaint shall be filed in a higher agency regarding the administrative act issued by an independent agency. The act may be appealed in a court.

**CHAPTER 12**

**The Enforcement Of An Administrative Act**

**Article 162. The agency authorized to enforce an administrative act**

1. Unless otherwise prescribed by law, an administrative act shall be enforced by the administrative agency that issued the act.

2. Upon the assignment of the issuing agency, the administrative act may be enforced by a lower or other administrative agency.

3. Unless otherwise prescribed by law or applicable regulation, an administrative agency may delegate the power to enforce an administrative act for a single or multiple term.

4. Only those officials who are responsible for enforcing an administrative act by virtue of their official authority shall enforce the act.

5. A person shall carry the identification card certifying the above-referenced authority and shall present it upon the request of those persons to whom the enforcement concerns.

**Article 163. The procedures for enforcing an administrative act**

1. The administrative agency (official) responsible for the enforcement shall exercise its official authority only within the scope that is necessary to ensure the enforcement of an administrative act.

2. The authority of the administrative agency (official) responsible for the enforcement may be restricted by the administrative act of a higher administrative agency (official).

#### **Article 164. The obligation to fulfill the requirements of an authorized administrative agency**

1. Every person shall fulfill the lawful requirements of an authorized administrative agency (official) related to the enforcement of an administrative act.

2. Unless otherwise prescribed by law or applicable regulation, a person may refuse to fulfill the requirement related to the enforcement, if it contravenes his official obligation, or if it will result in the disclosure of state, commercial or professional secret that he was required to protect under law.

#### **Article 165. The decision on ensuring the enforcement**

1. An administrative agency (official) may perform any lawful action in regard to other person for the purpose of enforcing an administrative act, only if the decision on ensuring the enforcement was issued.

2. The decision on ensuring the enforcement shall be in writing and shall constitute an administrative act.

3. The decision on ensuring the enforcement may be contained in the administrative act, which is to be enforced.

4. The decision on ensuring the enforcement shall include reference to the administrative act, which is to be enforced.

5. The decision on ensuring the enforcement shall include reference to the measure that is to be taken to ensure the enforcement. The decision shall specify only one measure for ensuring the enforcement.

6. If one measure cannot ensure the enforcement, an administrative act regarding the application of another measure shall be issued.

7. The decision on ensuring the enforcement shall specify the amount of expenses and the procedure for reimbursement. An administrative agency may subsequently change the amount of expenses according to the actions taken to enforce the administrative act.

#### **Article 166. Administrative proceeding regarding the issuance of the decision on ensuring the enforcement**

1. Articles 95 and 98 of this Code shall not apply to the administrative proceeding regarding the issuance of the decision on ensuring the enforcement.
2. In urgent cases, when state or public security and health or life of a person is undermined, or if the offense cannot be otherwise prevented, the decision on ensuring the enforcement may be issued orally.
3. The decision on ensuring the enforcement shall be issued in writing within three days after taking applicable measure for the enforcement, as prescribed by Chapter 4 of this Code.

**Article 167. The term for voluntary compliance with an administrative act**

1. The person, in regard to whom the measure for ensuring the enforcement is taken, shall be granted a certain term for voluntary compliance with the administrative act.
2. The administrative agency shall clearly determine actions that the person shall perform for the purpose of enforcing the administrative act.
3. The person may fulfill his obligation in a manner that is the most convenient to him.
4. The measure for ensuring the enforcement may not be taken in regard to the person, who fulfills the obligations stipulated by the decision on ensuring the enforcement within the fixed term. The fulfillment of the above-referenced obligation by the person within the fixed term shall result in the invalidation of the decision on enforcement.
5. In urgent cases stipulated by Article 166 of this Code the term may not be determined.

**Article 168. Reimbursement of the expenses related to enforcement**

1. Unless otherwise prescribed by law or applicable regulation, the person who fails to voluntarily comply with an administrative act within the term set by an administrative agency shall reimburse the expenses related to the enforcement of the administrative act.
2. If in cases stipulated by Article 167 of this Code no term was set for the person to voluntarily comply with an administrative act, the expenses related to the enforcement shall be covered by the state or local self-government and government agency.

**Article 169. The measure for ensuring enforcement**

1. After the expiration of the term for voluntary compliance with an administrative act, an administrative agency may take one of the following measures to enforce the administrative act:
  - (a) assign another person to the enforcement of the administrative act,
  - (b) impose a fine, or

(c) direct coercion.

2. The administrative agency may take only those measures that are set forth in the decision on ensuring the enforcement.

3. The administrative agency may opt for only those measures that will ensure the promptest and least costly enforcement of the act and will inflict no harm upon the society and respective person.

4. The enforcement of an administrative act shall immediately result in discontinuing the application of the measure for ensuring the enforcement.

#### **Article 170. Assigning another person to the enforcement of an administrative act**

1. If an administrative act may be enforced by another person, an administrative agency shall assign another person to the enforcement of the act in accordance with this Code.

2. The administrative agency shall reimburse the person to whom the enforcement was assigned for all expenses related to the enforcement of the administrative act. The administrative agency shall recover those expenses from a respective natural or artificial person in accordance with applicable legislation.

#### **Article 171. Ensuring the enforcement through a fine**

1. A fine as a measure for enforcement under Civil Law shall be imposed when an administrative act may be enforced only at the will of a respective person.

2. A fine as a measure for enforcement may also be imposed when another person may be assigned to the action related to the enforcement of the administrative act.

3. The amount of a fine shall be determined by the decision on ensuring the enforcement. The amount of a fine may be determined as a total amount or amount per day of violation of an administrative act, or amount per action violating an administrative act.

4. The total amount of a fine shall not exceed 1,000 laris for a natural person and 5,000 laris for an artificial person.

5. The amount of a fine per day or per action shall not exceed 50 laris for a natural person and 200 laris for an artificial person.

6. The minimum amount of a fine shall total 5 laris.

7. The amount of a fine shall be transferred to the state or territorial unit budget.

#### **Article 172. Direct coercion**

1. If notwithstanding the measures set forth in Articles 170 and 171 an administrative act was not enforced, the responsible administrative agency may ensure the enforcement through direct coercion.

2. Direct coercion may also be resorted to in accordance with Paragraph 2 of Article 166 of this Code.

3. An administrative agency shall take only those measures of direct coercion that are prescribed by law or applicable regulation.

**Article 173. The enforcement in regard to local self-government and government agencies**

The provisions of this Chapter regarding the enforcement of an administrative act shall not apply to local self-government or government agencies.

**Article 174. The enforcement of an administrative act during the state of emergency or martial law**

Law may prescribe the rules different from this Code for the state of emergency or martial law, or in regard to the enforcement of an administrative act by police.

**Article 175. Special procedure for enforcing an administrative act in regard to the recovery of funds**

1. The measures for ensuring the enforcement, as prescribed by Article 170 of this Code, may not apply to the enforcement of an administrative act in regard to the recovery of funds.

2. The enforcement of an administrative act in regard to the recovery of funds shall require the decision of a respective administrative agency on ensuring the enforcement.

3. If the required person refuses to pay funds on the basis of an administrative act, an administrative agency may render the decision on ensuring the enforcement, according to which the authorized person will require the debtor to transfer the amount to the account of the administrative agency.

4. The coercive recovery of funds from a person and placement of lien on property shall be based upon the writ of execution, as prescribed by the Law of Georgia on Enforcement Proceedings.

**Article 176. Filing a complaint against the decision on ensuring the enforcement**

1. A complaint against the decision on ensuring the enforcement shall be filed pursuant to the procedures set forth in this Code.

2. If the enforcement measure and the term stipulated by the decision on ensuring the enforcement are based upon the administrative act that is to be enforced, the complaint shall be filed only together with the respective administrative act.

## **CHAPTER 13**

### **The Administrative Proceeding In Regard To An Administrative Complaint**

#### **Article 177. The right to file a complaint against an administrative decree**

1. An interested party may file a complaint against the administrative decree issued by an administrative agency.
2. The failure of an administrative agency to issue an administrative act within a fixed term shall be considered as a refusal to issue the act and will constitute the ground for filing a complaint pursuant to this Chapter.
3. A complaint may be filed against any action of an administrative agency pursuant to the procedures prescribed by this Chapter.
4. No complaint shall be filed against the decision of an administrative agency on administrative proceeding, except as expressly prescribed by law or when the decision contravenes the rights or lawful interests of a person independently of the respective administrative decree.

#### **Article 178. The administrative agency competent to review an administrative complaint**

1. Unless otherwise prescribed by law or applicable regulation, an administrative complaint shall be reviewed and resolved by the administrative agency that issued the administrative decree, if there is an official or the higher official of a structural subdivision who issued the administrative decree.
2. A complaint against the administrative decree issued by the chief official of an administrative agency shall be filed in a higher administrative agency.

#### **Article 179. Administrative complaint**

1. An administrative proceeding shall commence pursuant to the procedures prescribed by this Chapter only after an administrative complaint is filed.
2. An administrative complaint shall be in writing and shall comply with the requirements prescribed by this Code.

#### **Article 180. The term for filing an administrative complaint**

1. Unless otherwise prescribed by law, an administrative complaint shall be filed within one month after the promulgation or official notification of an administrative act.

2. A complaint against the action of an administrative agency may be filed within one month after the interested party became aware of such action.

3. An administrative agency may not define the term for filing a complaint if it fails to issue an administrative decree with the fixed term.

4. In case of failure to file an administrative complaint within the fixed term, the term shall be extended if the failure occurred due to force-major or other reasonable excuse.

### **Article 181. The content of an administrative complaint**

1. An administrative complaint shall include the following information:

(a) the title of the administrative agency where the complaint is filed,

(b) the identity and address of the complainant,

(c) the title of the administrative agency whose administrative decree or action is subject to complaint,

(d) the title of the administrative decree subject to complaint,

(e) claim,

(f) the grounds for the claim, and

(g) the list of attached documents, if any.

2. If the complainant was provided with the respective administrative decree, a copy of the decree shall be attached to the administrative complaint.

### **Article 182. The refusal to accept or review an administrative complaint**

1. An administrative agency may not review an administrative complaint if:

(a) there is a court decision or ruling certifying that the plaintiff abandoned the claim stipulated by the complaint, or the defendant admitted it, or the parties reached an agreement on the claim,

(b) the case regarding the same claim, involving the same parties, and based on the same ground is in a court, or

(c) the same or a higher administrative agency has already rendered the decision regarding the same matter.

2. Before rendering the decision on refusing to accept or review an administrative complaint, the administrative agency shall enable the complainant to present his opinion regarding the matter.

### **Article 183. The term for reviewing an administrative complaint**

1. Unless otherwise prescribed by law or applicable regulation, an authorized administrative agency shall review an administrative complaint and render a decision within a month.
2. In cases prescribed by applicable legislation, when detection of substantial circumstances for the case requires the term longer than that prescribed for reviewing an administrative complaint, an administrative agency shall be authorized to render a reasoned decision to extend the term for reviewing an administrative complaint.
3. An administrative agency shall render the decision stipulated by Paragraph 2 of this Article no later than ten days after the commencement of administrative proceeding and shall inform the complainant.
4. Unless otherwise prescribed by law or applicable administrative decree, the term for reviewing an administrative complaint may be extended for not more than one month.

### **Article 184. The suspension of an administrative legal act upon filing an administrative complaint**

1. Unless otherwise prescribed by law or applicable regulation, the act that is subject to complaint shall be deemed suspended upon the registration of an administrative complaint.
2. An administrative decree may not be suspended if:
  - (a) the suspension will result in the increase in expenses of the State or local self-government or local government agencies;
  - (b) it is the administrative decree of police that was adopted to maintain public order,
  - (c) it was issued during the state emergency or martial law pursuant to applicable legislation, or
  - (d) the postponement of the enforcement will result in substantial material damages or will substantially undermine public order or security.
3. The decision based on Paragraph 2 of this Article regarding the extension of the term of an administrative decree shall be rendered by the administrative agency that issued the decree, or by a higher administrative agency.
4. A complaint against the decision of an administrative agency stipulated by Paragraph 3 of this Article shall be filed in a court in compliance with applicable legislation.
5. An interested party may refer to a court pursuant to law to restore the suspended administrative decree.

### **Article 185. The procedure for reviewing an administrative complaint**

Unless otherwise prescribed by this Chapter, the provisions under Chapter 6 of this Code apply to the administrative proceeding related to an administrative complaint.

### **Article 186. The review and resolution of an administrative complaint by a corporate administrative agency**

The procedures prescribed by Chapter 7 of this Code apply to the review and resolution of an administrative complaint by a corporate administrative agency.

### **Article 187. Inadmissibility of involvement in the review of an administrative complaint**

The person who participated in the preparation or issuance of the administrative decree subject to complaint may not be involved in the review of the administrative complaint.

### **Article 188. The right to amend or nullify an administrative decree**

1. Filing of an administrative complaint may not restrict the right of an administrative agency that issued the administrative decree to amend, invalidate or nullify the decree in compliance with the procedure prescribed by this Code.

2. If an administrative decree is amended or nullified, the administrative agency shall inform the administrative agency reviewing the complaint within five days.

### **Article 189. The obligation to issue an administrative decree**

1. If an administrative complaint is filed in regard to the failure to issue an administrative decree within the fixed term, the filing of the complaint may not interfere with the obligation of an administrative agency to issue an administrative decree, except as prescribed by law.

2. Unless otherwise prescribed by law, the issuance of an administrative decree by an administrative agency shall result in the termination of the administrative proceeding on the administrative complaint regarding the failure to issue the administrative act.

### **Article 190. Resumption of administrative proceeding upon the amendment or revocation of an administrative decree**

If the administrative agency that issued the administrative decree subject to complaint amends or revokes the decree, the review of the administrative complaint shall be continued if an interested party seeks to nullify the decree.

### **Article 191. The abandonment of an administrative complaint**

1. The person who filed an administrative complaint may abandon the complaint before the administrative agency renders a decision.
2. The abandonment of an administrative complaint shall be announced in writing. During an oral hearing an interested party may abandon a complaint orally as well.
3. The abandonment of an administrative complaint may not suspend its review if the suspension may undermine state or public interests or inflict substantial harm.

### **Article 192. The right of an administrative agency to admit an administrative complaint**

1. The administrative agency that issued the administrative decree subject to complaint may admit the complaint if it complies with applicable legislation.
2. Unless otherwise prescribed by law or applicable regulation, the administrative agency that reviews an administrative complaint may continue administrative proceeding even if the administrative agency that issued the administrative decree admitted the complaint.

### **Article 193. The volume of the administrative proceeding related to an administrative complaint**

1. Unless otherwise prescribed by law or applicable regulation, an administrative agency shall review an administrative complaint within the scope of the claim of the complaint. In cases prescribed by law the agency may review a complaint beyond the scope of the claim.
2. If the administrative agency reviewing the complaint cannot render a decision only in regard to the part of the administrative decree to which the complaint concerns, the agency shall render the decision in regard to the entire decree upon the written consent of the complainant. If the latter is against it, the agency may decide to ignore the complaint, if it complies with law.

### **Article 194. The participation of an interested party in the administrative proceeding in regard to an administrative complaint**

1. An administrative agency shall enable the interested party participating in the administrative proceeding to present his opinion.
2. An administrative agency shall serve written notice about the commencement of the proceeding to all persons who previously participated in the administrative proceeding in regard to the issuance of the administrative decree. The agency shall also ensure their participation in the proceeding.

3. Unless otherwise prescribed by law or applicable regulation, the refusal of an interested party to present his opinion or additional information or to attend oral hearing may not result in the suspension of the administrative proceeding.

**Article 195. The participation of the administrative agency that issued the administrative decree in the administrative proceeding in regard to an administrative complaint**

1. The administrative agency reviewing an administrative complaint shall within five days send a copy of the complaint and attached documents to the administrative agency that issued the administrative decree.

2. The administrative agency that issued the administrative decree subject to complaint shall present all decree-related materials of the proceeding and its written opinion regarding the complaint to the administrative agency reviewing the complaint. The above-referenced documents shall be provided within five days after receiving the administrative complaint.

3. Unless otherwise prescribed by law, the administrative agency that issued the administrative decree subject to complaint and the interested party involved in the administrative proceeding related to the complaint shall enjoy the same rights.

4. The administrative agency that issued the administrative decree subject to complaint shall be represented in an administrative proceeding by the official who issued the decree or by another authorized person. If the decree was issued by a corporate agency, it shall be represented by the chief official of the agency.

5. The administrative agency that issued the administrative decree subject to complaint may be represented in an administrative proceeding by another employee only with the consent of the administrative agency that reviews the complaint.

**Article 196. The submission of additional information by interested parties**

1. Unless otherwise prescribed by law, the complainant and another interested party shall present their opinion and other additional case-related documents within five days before the commencement of oral hearing.

2. An administrative agency shall serve a written notice to the participant of the administrative proceeding regarding the date of the oral hearing within five days before the commencement of the hearing.

**Article 197. Access to the materials of an administrative proceeding**

1. Parties to an administrative proceeding shall be granted access to the documents of the proceeding pursuant to Article 99 of this Code.

2. Upon the request of the parties or at its own initiative the administrative agency reviewing the administrative complaint may not provide interested parties with the information which applicable laws classify as state, commercial, professional, or private secret, unless otherwise prescribed by law.

3. In case when providing such information may inflict moral harm upon a person, the administrative agency may provide the information to the representative of the person, if the representative is a lawyer or doctor.

#### **Article 198. The procedures for conducting an oral hearing**

1. An oral hearing shall be conducted in accordance with the procedures set forth in Chapter 8.

2. Parties to an administrative hearing may be heard in the absence of each-other, if required so for the purpose of avoiding the disclosure of state, commercial, professional or private secret, or if substantial case-related circumstances cannot be otherwise discovered.

3. An administrative agency shall render a reasoned decision regarding the matter stipulated by Paragraph 2 of this Article upon the request of an interested party.

4. Unless otherwise prescribed by law or applicable regulation, the session of an oral hearing shall be closed.

5. The session of an oral hearing shall be open if an administrative complaint is filed against the administrative decree that is based on public administrative proceeding.

#### **Article 199. The review and resolution of an administrative complaint without an oral hearing**

1. An administrative agency may review and resolve an administrative complaint without an oral hearing, if:

(a) it invokes the grounds for denying the complaint, or

(b) all interested parties to the proceeding agree on hearing the case without oral hearing.

2. An administrative agency shall provide the grounds for not conducting oral hearing in the administrative decree issued in regard to the complaint.

#### **Article 200. The submission of opinion by an interested party to the case after an oral hearing**

If the administrative agency reviewing an administrative complaint becomes aware of a new substantial case-related circumstance after the oral hearing, it shall inform interested parties to the proceeding and enable them to present their opinions regarding this matter.

**Article 201. The decision of an administrative agency regarding the review of an administrative complaint**

1. After the review of an administrative complaint the administrative agency shall render one of the following decisions:

- (a) comply with the complaint,
- (b) deny the complaint, or
- (c) partly comply with the complaint.

2. If there is a need to investigate additional materials to the case, the administrative agency shall postpone the review and serve notice to the parties.

3. The administrative agency shall examine the expediency of the proceeding-related administrative decree.

4. The administrative agency reviewing an administrative complaint shall examine whether the decree complies with the statutory requirement for granting any right or preference to the complainant.

**Article 202. The issuance of an administrative decree in regard to an administrative complaint**

1. The decision of an administrative agency regarding the review of an administrative complaint shall constitute an administrative act and shall meet the requirements for administrative acts as prescribed by this Code.

2. The administrative agency shall indicate in the administrative act issued in regard to the complaint the agency in which a complaint against the act may be filed, including its address and the term for filing the complaint.

**Article 203. The amendment, nullification or invalidation of the administrative act subject to complaint. The issuance of a new administrative decree**

1. An administrative agency may amend, revoke or invalidate the administrative act subject to complaint.

2. An administrative agency may not amend, revoke or invalidate an administrative decree, if the violation made during the preparation and issuance of the decree is not substantial.

3. Unless otherwise prescribed by law or applicable regulation, the administrative agency reviewing an administrative complaint shall issue a new administrative decree as a substitute for the null or invalid act, if required so by the complainant or applicable law.

4. If the collection of additional information or additional examination of evidence is required, a higher administrative agency may order the agency that issued the nullified or invalidated decree to issue a new administrative decree. The instructions included in such decision shall be mandatory for the lower administrative agency.

5. The administrative agency reviewing an administrative complaint may not issue an administrative decree, if the power to issue the decree is granted only to the agency that issued the act subject to complaint, or if the issuance of the decree requires special ground, including competition.

6. An administrative agency shall examine the administrative decree based on the decision of a corporate or advisory body or public expert only in terms of its legitimacy. In case of the nullification or invalidation of the decree the agency shall order an appropriate administrative agency to issue a new administrative decree.

**Article 204. The expenses of the administrative proceeding based on an administrative complaint**

1. No state duty or other tax shall be imposed for the review of an administrative complaint.

2. The expenses of the administrative proceeding based on an administrative complaint includes:

(a) the expenses incurred by the administrative agency in connection to the proceeding, and

(b) the expenses incurred by the parties to the proceeding.

3. The expenses incurred by parties to the proceeding includes the fees paid to an advocate or other representative, missed wages, the expenses incurred to obtain evidence, and other expenses incurred by the parties to ensure appropriate legal defense.

4. The decision regarding the reimbursement of the expenses shall be rendered by the administrative agency that reviews the complaint.

**Article 205. The procedures for the reimbursement of the expenses related to the review of an administrative complaint**

1. The proceeding-related expenses incurred by the administrative agency reviewing the administrative complaint, which were not reimbursed, shall be covered by the complainant, except for the salary (missed wages) paid to the employee of the agency.

2. In case of compliance with the complaint, the complainant shall be entitled to the reimbursement of the expenses that were incurred during the administrative proceeding. The expenses shall be reimbursed by the administrative agency that issued the administrative decree subject to complaint.

3. An administrative agency shall reimburse the complainant for the expenses incurred, even if the complaint was denied, provided the administrative decree was issued in accordance with the applicable procedures, but it failed to comply with the requirements prescribed by Paragraph 2 of Article 60 of this Code.

4. If an administrative complaint is filed with the same administrative agency, the expenses of the administrative proceeding shall be reimbursed from the budget of the State or respective territorial unit.

5. A natural person shall cover the expenses stipulated by Paragraph 4 of this Article only if he was aware of the circumstances proving unreasonable grounds of the administrative complaint.

6. Another interested party to the administrative proceeding shall reimburse the expenses of the proceeding only if he independently submitted a motion or application.

7. The expenses of an administrative proceeding that were incurred by reason of any party to the proceeding shall be covered by the latter.

8. If an administrative proceeding is terminated due to the compliance with the administrative complaint by the administrative agency, the complainant shall be entitled to the reimbursement of the expenses incurred.

9. The administrative agency reviewing the complaint shall explain the right set forth in Paragraph 8 of this Article to a complainant.

#### **Article 206. The division of expenses among the parties**

1. If only a part of the complaint was complied with, the expenses related to the review of the complaint shall be proportionally divided among the parties.

2. If a party that shall cover the expenses of the review of an administrative complaint consists of several natural or artificial persons, the expenses shall be equally divided among them.

### **CHAPTER 14**

#### **The Liability Of An Administrative Agency**

#### **Article 207. The application of the Civil Code of Georgia in redressing the damage inflicted by an administrative agency**

Unless otherwise prescribed by this Code, the damage inflicted by an administrative agency shall be redressed in accordance with the procedures prescribed by the Civil Code of Georgia.

#### **Article 208. The special procedures for the liability of a state or local self-government (government) agency**

1. The State shall bear liability for the damage inflicted by a state administrative agency, its official, or other public servant in the course of the execution of official duties.
2. A local self-government (government) agency shall bear liability for the damage inflicted by it, its official, or other employee in the course of the execution of official duties.
3. If a person performs any activity upon the delegation of power or assignment by a state or local self-government (government) agency, the liability for the damage inflicted in the course of such activity shall be imposed upon those agencies.

**Article 209. The liability of a state or local self-government (government) agency for the damage inflicted by a lawful administrative decree**

1. If the administrative decree that was issued for public need in compliance with law inflicts substantial damage upon only a certain person or a group of person in violation of the principle of equality, the state or local self-government (government) agency shall redress the damage.
2. The scope of redressing the damage shall be defined on the basis of the estimation of public and private interests.

**CHAPTER 15**

**The Administrative Proceeding Related To The Issuance Of A Normative Administrative Decree**

**Article 210. The legislation applying to the issuance of a normative administrative decree**

1. The issuance of a normative administrative decree shall be regulated by the Constitution of Georgia, the Law of Georgian on Normative Acts, this Code, and other applicable legislative acts and regulations.
2. Unless otherwise prescribed by law, a normative administrative decree shall be issued (adopted) in accordance with the procedures prescribed for public administrative proceeding.

**Article 211. The commencement of an administrative proceeding for the purpose of issuing a normative administrative decree**

1. The administrative proceeding for the purpose of issuing a normative administrative decree shall commence by the decision of the administrative agency (official) competent to issue the decree.

2. The decision to commence the administrative proceeding for the purpose of issuing a normative administrative decree shall be in writing and shall constitute an administrative act.

3. The administrative proceeding for the purpose of issuing a normative administrative decree may commence upon the application of a natural or artificial person or administrative agency only in cases prescribed by law.

#### **Article 212. The drafting of a normative administrative decree**

1. Unless otherwise prescribed by law or applicable regulation, a normative administrative decree shall be drafted by the administrative agency competent to issue the decree.

2. Within the scope of its power an administrative agency may assign a lower administrative agency or other natural or artificial person to the drafting of a normative administrative decree on the basis of an agreement in cases prescribed by applicable legislation.

3. The decision to assign a lower administrative agency to the drafting of a normative administrative decree shall be rendered upon the written consent of the agency.

#### **Article 213. The promulgation of a draft normative administrative decree**

1. A draft normative administrative decree shall be promulgated in compliance with the procedures prescribed by Articles 55 and 56 of this Code.

2. The notice regarding the administrative proceeding shall be promulgated together with the draft normative administrative decree.

3. The notice shall include:

(a) the title of the administrative agency where the proceeding is conducted,

(b) the term for issuing a normative administrative decree, and

(c) the term for presenting an opinion.

4. If the draft normative administrative decree is of large volume, the administrative agency may promulgate only the notice regarding the administrative proceeding. In such case the notice shall include the title and summary of the normative decree.

#### **Article 214. Referring a draft normative administrative decree to respective administrative agencies**

1. A draft normative administrative decree shall be referred to other administrative agencies if the latter are competent to regulate the legal relations stipulated by the decree

or its part, or if law expressly prescribes so, or if law requires those agencies to present their opinion regarding the decree.

2. A draft normative administrative decree shall also be provided to a public expert if law requires expert evidence.

#### **Article 215. Opinions of administrative agencies and expert evidence**

1. The administrative agencies or public expert who were provided with a draft normative administrative decree shall present their opinions or evidence regarding the decree within the term defined by applicable legislation or respective administrative agency. The term defined by the administrative agency may not be less than ten days.

2. The opinion presented by another administrative agency shall be reviewed before the completion of the administrative proceeding and shall be responded in writing.

3. Unless otherwise prescribed by law, the failure of another administrative agency or public expert to present the opinion or evidence within the fixed term may not delay the issuance of the normative administrative decree.

4. No normative administrative decree shall be issued without the opinion of a respective administrative agency if the opinion is required by law or applicable regulation.

5. Unless otherwise prescribed by law, a negative opinion may not delay the issuance of a normative administrative decree.

#### **Article 216. Presenting a private opinion**

1. Each person or entity may present an opinion regarding a draft normative administrative decree.

2. Each opinion regarding a draft normative administrative decree shall be reviewed by an administrative agency. The latter may not be required to respond the opinions.

3. A person may present his opinion anonymously.

4. An administrative agency shall refer the opinion presented by a person to other respective administrative agency or a public expert within one day after the registration of the opinion.

#### **Article 217. The term for drafting and issuing a normative administrative decree**

Unless otherwise prescribed by law or applicable regulation, the term for drafting and issuing an administrative decree shall be defined by the decision regarding the commencement of an administrative proceeding related to the issuance of a normative act.

## **CHAPTER 16**

### **Transitional Provisions**

#### **Article 218. The conditions necessary for the enforcement of this Code**

1. In regard to the enforcement of this Code the Ministry of Justice of Georgia shall draft amendments to respective legislative acts before November 15, 1999.
2. No empowering administrative act that was issued before the enforcement of this Code shall be nullified or invalidated if a person performed any action of legal nature based on this act, except for cases prescribed by Subparagraph (b) of Paragraph 1 of Article 60 and Subparagraphs (a), (b) and (c) of Paragraph 2 of Article 61 of this Code.

## **CHAPTER 17**

### **Conclusive Provisions**

#### **Article 219. The entry into force of this Code**

This Code shall enter into force on January 1, 2000.

#### **Article 220. Invalid legislative acts**

The entry into force of this Code shall result in the invalidation of the following legislative acts:

- (a) The Law of Georgia on the Procedures for Reviewing Applications, Complaints and Appeals in State Agencies, Enterprises, Institutions, and Organizations (regardless of their organizational and legal status), December 24, 1993.

[As amended on September 9, 1999, under the Law of Georgia No. 2372-IS]

Eduard Shevardnadze

The President of Georgia

Tbilisi, June 25, 1999. No. 2181-IIR

[As amended on September 9, 1999, under the Law of Georgia No. 2372-IS]