

# **Administrative Procedure Code of Georgia**

## **Chapter I**

### **Basic Provisions on Administrative Proceedings**

#### **Article 1. Scope of the Code**

1. This Code determines procedural rules of examination of and decision-making in administrative cases by Georgia's common courts.
2. Unless otherwise stated in this Code, provisions of the Georgian Civil Procedure Code shall apply to administrative proceedings.

#### **Article 2. Cases falling within the jurisdiction of courts (28.12.2007)**

1. The following may be matters of administrative dispute before a court:
  - (a) compatibility of an administrative legal act with the Georgian legislation;
  - (b) conclusion, performance or termination of an administrative agreement;
  - (c) obligation of an administrative body to reimburse damages, to issue an administrative legal act or to perform other action;
  - (d) declaring an act completely null or determination of the existence of a right or legal relationship.
2. A court will decide a case concerning placing an individual in a hospital for involuntary psychiatric care under rules of administrative proceedings.
3. In addition to the cases referred to in paragraphs 1 and 2 of this Article, a court will also decide on other cases using rules of administrative proceedings if they relate to legal relations stemming from administrative law.
4. An administrative organ is barred from lodging a lawsuit on a matter the decision-making on which falls within its competence.
5. Unless the law prescribes otherwise, a court will not accept a lawsuit against an administrative body if the plaintiff has not used a one-time possibility of lodging an administrative complaint under rules established by the General Administrative Code of Georgia. (4.12.2009; #2270)

#### **Article 3. Dispositive principle**

1. In administrative proceedings, parties enjoy rights and obligations under Article 3 of the Georgian Civil Procedure Code.

2. An administrative body, which participates in administrative proceedings, is authorized to end the case with settlement, to withdraw its lawsuit or to admit a lawsuit only if these would not be incompatible with the Georgian legislation.

#### **Article 4. Adversarial nature and examination of circumstances of the case by a court**

In the course of review of an administrative case, parties enjoy the rights and obligations under Article 4 of the Civil Procedure Code; in addition, a court is authorized to decide, on its own initiative, about submission of additional information or evidence.

## **Chapter II Jurisdiction**

#### **Article 5. Cases falling within the jurisdictions of district (town) courts**

1. District (town) courts, acting as first instance courts, will decide on administrative cases, which are subject to jurisdiction of courts, except the cases referred to in Article 6 of this Code.
2. District (town) courts, acting as first instance courts, will also decide on administrative cases in administrative territorial units where no magistrate judges operate. (24.06.2005; #1800)

#### **Article 6. Administrative cases falling within the jurisdiction of magistrate judges**

Magistrate judges, acting as first instance courts, will decide on the following cases:

- (a) Deleted (24.09.2009; #1692)
- (b) Cases concerning legality of individual administrative legal acts envisaged by the Administrative Offences Code – pursuant to rules prescribed by the Administrative Offences Code; (26.04.2012; #6091)
- (b<sup>1</sup>) Cases concerning administrative offences falling within the jurisdiction of courts, based on the relevant protocol submitted to the court – pursuant to rules prescribed by the Administrative Offences Code; (26.04.2012; #6091)
- (c) Cases concerning social protection by the State;
- (d) Disputes arising in relation to enforcement of a final judgment of a court;
- (e) Disputes arising out of labor relations in public service;
- (f) Motions of controlling bodies for issuing a court order authorizing the checking of an entrepreneur's activities; (24.06.2005; #1800);

- (g) Cases concerning the placement of an individual in a hospital for involuntary psychiatric assistance based on a request submitted by a relevant psychiatric institution or an administration of a penitentiary institution. (21.07.2010; #3526)

### **Chapter III**

#### **Impartiality; Recusal**

#### **Article 7. Prohibition of a repeated participation of a judge in the review of a case**

A judge who has previously participated in administrative proceedings concerning the same case cannot participate in the review of the case. (25.10.2000)

**Article 8.** Deleted (24.02.2000; #169, The Georgian Legislative Herald #7)

### **Chapter IV**

#### **Litigation costs**

#### **Article 9. State Fee**

1. No State Fee shall be payable for lawsuits related to social protection by the State and to cases envisaged in Chapter VII<sup>3</sup> of this Code.
- 1<sup>1</sup>. No State Fee shall be payable for cases envisaged in Chapter VII<sup>9</sup> of this Code. (28.12.2009; #5666; to become effective on the 15<sup>th</sup> day following its publication)
2. Deleted (28.12.2007; #5670)
3. The amount of State Fee will be halved if a case is terminated.
4. Deleted (28.12.2007; #5670)

#### **Article 10. Reimbursement of litigation costs**

1. Deleted (28.12.2007; #5670)
2. If an individual administrative legal act was issued without the case circumstances properly examined, an administrative body shall reimburse litigation costs even if a decision is made in its favor. (24.06.2005; #1800)
3. If a party, which has the obligation to pay the court costs, consists of several natural persons or legal entities, the court costs shall be equally divided among them.

### **Article 11. Division of litigation costs in case of settlement**

1. If the proceedings before a court end with settlement but the parties cannot agree on division of costs, provided that a party is not released from the obligation of paying the court costs, the court costs shall be equally divided among them.
2. Each party shall independently pay for any extra-judicial costs.

## **Chapter V**

### **Procedural terms; Court summons and the requirement to appear before the court**

### **Article 12. Counting the term for lodging a complaint**

1. The flow of a term for lodging a complaint commences only if a party to the proceedings has been informed, through a court act, that it can lodge a complaint as well as about the court where the complaint should be lodged, the location of the court, and the term and rules of lodging a complaint.
2. If a party has not been informed about its right to lodge a complaint or has been informed in violation of any of the requirements indicated in the first paragraph of this Article, the court act in question may be challenged within a year after it has been passed.
3. If a court act is inconsistent with the requirements of the first paragraph of this Article, a court will, based on a party's motion or on its own initiative, issue an order about compatibility of the court act with the requirements of this Law. Such an order may be challenged by lodging a private complaint. (24.06.2005; #1800)

### **Article 13. Serving a summons and documents to a party**

1. Every summons, document or letter sent by a court to the parties or other persons participating in the case shall bear a sending date on it.
2. A court will send to the parties or their representative a copy of a decision or order that may be challenged through the same or in a superior instance court. Copies of other court acts will be handed over to the parties or their representatives based on their request made in writing. A document sent to a representative will be deemed to have been sent to a party and a document sent to a party will be deemed to have been sent to a representative.
3. A person who is not registered in Georgia or who is registered without an address shall, upon request of a court, appoint another person authorizing such a person to receive documents on his/her behalf.

4. Deleted (28.12.2007; #5670)
5. If a document to be sent by a court is a large size document, a party or its representative will be informed about the name of the document and that he/she may acquaint himself/herself with the document at the court's clerical office. (28.12.2007; #5670)
6. A party has the right to receive a copy of such a document at his/her own expense or to make notes at the court's clerical office.

## **Chapter VI**

### **Parties in administrative proceedings**

#### **Article 14. Participants of administrative proceedings**

1. In addition to persons referred to in Article 79 of the Civil Procedure Code, an administrative body, which has issued the administrative legal act or performed any action of legal importance must also participate in administrative proceedings.
2. The State is responsible for actions and decisions of a State administrative body or of a private person who has been delegated rights by the State.

#### **Article 15. Participation in administrative proceedings through a representative**

1. If a party is a State body or a local self-governance body, its head or an official vested by the Georgian legislation with its representative power shall represent it before a court. (24.09.2009; #1692)
2. A State body or a local self-governance body is authorized to appoint, according to rules established by the Georgian legislation, an official or a public servant who works at that administrative organ as its representative in administrative proceedings. (24.09.2009; #1692)
3. A State body or a local self-governance body is authorized to appoint an attorney as its representative. (24.09.2009; #1692)
4. If the value of a matter of dispute exceeds 500,000 Lari and/or the case is extraordinarily difficult in terms of facts or law, an executive body shall address the Georgian Justice Ministry, which is empowered to demand appointment of an official or a public servant of the Justice Ministry as a representative of that body in administrative proceedings (except in case of disputes arising out of the Georgian tax legislation). In this case, the executive body, with the consent of the Georgian Ministry of Justice, is authorized to empower an official or a public servant who works at that body to represent it in the same proceedings. (22.03.2011; #4463)

5. It is prohibited to appoint an employee of the Georgian Prosecution Office as a representative of an executive body in the events referred to in the fourth paragraph of this Article. (27.03.2009; #1131; to become effective since 1 June 2009)
6. The Minister of Justice of Georgia will, through its order, determine the rules of addressing the Ministry of Justice, movement of case materials, appointment of a representative and the related terms applicable in the events envisaged by the fourth paragraph of this Article. (27.03.2009; #1131; to become effective since 1 June 2009)

#### **Article 16. Involving a third person in administrative proceedings**

1. Until the completion of a court session on the merits of a case, a court is authorized to inform a person whose interests may be affected by the court decision about the commencement of administrative proceedings and involve that person in the proceedings as a third person.
2. A third person must necessarily be involved in the proceedings if it is a participant of the legal relationship on which a court can make only a general ruling [affecting everyone involved]. If more than 10 persons are participants of the legal relationship, a court will involve only the persons who express their wish to be involved in the proceedings.
- 2<sup>1</sup>. Every interested person may address a court with an application requesting that the court involve him/her as a third person in the proceedings under paragraphs 1 and 2 of this Article.
- 2<sup>2</sup>. A third person may be involved in the proceedings under paragraphs 1 and 2 of this Article at one of the parties' initiative, which the party should express in the form of a motivated motion addressed to the court.
- 2<sup>3</sup>. A court order refusing to involve a third person in the proceedings may be challenged by lodging a private complaint. (24.06.2005; #1800)
3. A court order concerning the involvement of a third person in the proceedings shall be sent to the parties and the third persons. If more than 10 persons are involved in the administrative proceedings, a court order may be published, instead.
4. A court order involving a third person in the proceedings may not be challenged. A court order made in relation to paragraph 2 of this Article may be challenged only by a person who has been involved in the case.
5. A third person referred to in the second paragraph of this Article enjoys all of the rights of a plaintiffs and defendants and bears all of the obligations applicable to plaintiffs.

## **Chapter VII**

### **Evidence before a court**

#### **Article 17. Burden of proof**

1. It is the obligation of the plaintiff to substantiate its lawsuit and submit relevant evidence. The defendant is obliged to provide its reply in writing (a counterclaim) and relevant evidence. (28.12.2007; #5670)
2. Unless the law prescribes otherwise, an administrative organ that has issued an impugned act shall bear the burden of proof when it is demanded by a lawsuit to declare the administrative legal act completely null, null and void or invalidated. (24.06.2005; #1800)

**Article 18.** Deleted (28.12.2007; #5670)

#### **Article 19. Collection of evidence by courts**

1. In addition to its power under Article 103 of the Georgian Civil Procedure Code, a court shall also be authorized to collect facts and evidence on its own initiative.
2. A party has the right to provide its opinion about such facts and evidence before they are used and examined.
3. A court is authorized to allow a party additional time for submission of evidence. (28.12.2007; #5670)
4. If a party, due to a valid cause, is unable to obtain evidence and submit them to the court itself, it shall notify the court thereabout not later than on the work day preceding the date of trial. (28.12.2007; #5670)
5. If an administrative body has, due to an invalid cause, failed to submit evidence, a court will fine the relevant official of the administrative body with 200 Lari; however, the official shall not, as a result, be liberated from its obligation to provide the evidence further. In this case, a court is authorized to address the head of the administrative body or a superior administrative body with a demand of ascertaining the reasons of non-submission of evidence to the court and applying disciplinary measures against the relevant official. (28.12.2007; #5670)

#### **Article 20. An obligation of an administrative body to furnish a court with information**

An administrative body is obliged to furnish a court, at the latter's request, with documents and other information required for examination of, and decision-making in, the case. (14.09.2001; #1063)

#### **Article 20<sup>1</sup>. Rules of examining classified information by courts**

1. With a view of examining the legality of classification of any classified public information, a court (judge) will review a case at a closed session in the absence of the parties.
2. Information referred to in the first paragraph of this Article will not be provided to the parties.
3. A decision made in a case referred to in this Article will not contain any data, which may result in the disclosure of any classified information. (14.09.2001; #1063)

#### **Article 21. The right to view court acts**

1. Unless otherwise stated in this Code, persons involved in a case have the right to view any court acts made in relation to their case as well as any materials furnished to the court, in a court's clerical office.
2. A party may receive copies of court acts and other materials of an administrative case through a court's clerical office. A party shall bear costs of making copies of documents. No other fee may be demanded for making copies.
3. Draft court acts and other preparatory materials will not be made available to the parties.

### **Chapter VIII**

#### **Administrative proceedings in the first instance courts**

#### **Article 22. A lawsuit for declaring an administrative legal act void or invalidated**

1. A lawsuit may be lodged to demand that an administrative legal act be declared void or invalidated.
2. Unless otherwise prescribed by law, the lawsuit will be admissible if the impugned administrative legal act or any part of it causes a direct and immediate (individual) damage to the plaintiff's lawful right or interest or unlawfully limits his/her right.
3. Unless otherwise prescribed by law, the lawsuit must be lodged with a court within 1 month after acquainting oneself with the individual administrative legal act or a decision made about an administrative complaint, respectively, or after the expiry of the term for making a decision about an administrative complaint. In relation to a normative act, the lawsuit must be lodged within 3 months after individual damages have been sustained as a result of the normative act. (28.12.2007; #5670)
4. Deleted (4.07.2007; #5198)
5. Deleted (28.12.2007; #5670)

6. No counter lawsuit may lodged in relation to a lawsuit for declaring an administrative legal act void. (28.12.2007; #5670)

### **Article 23. A lawsuit for having an administrative legal act issued**

1. A lawsuit may be lodged to demand that an administrative legal act be issued.
2. Unless otherwise prescribed by law, the lawsuit will be admissible if an administrative body's refusal to issue an administrative legal act causes a direct and immediate (individual) damage to the plaintiff's lawful right or interest.
3. Unless otherwise prescribed by law, the lawsuit must be lodged with a court within 1 month after having received an administrative body's refusal to issue the administrative legal act. (24.06.2005; #1800)
4. No counter lawsuit may lodged in relation to a lawsuit for having an administrative legal act issued. (28.12.2007; #5670)

### **Article 24. A lawsuit for having an action implemented**

1. A lawsuit may be lodged to demand that [an administrative body] implement an action or refrain from implementing an action other than issuance of an administrative legal act. (24.06.2005; #1800)
2. The lawsuit will be admissible if the administrative body's implementation of an action or refraining from implementing an action causes a direct and immediate (individual) damage to the plaintiff's lawful right or interest. (28.12.2007; #5670)

### **Article 25. Declaratory lawsuit**

1. A declaratory lawsuit may be lodged to demand that an act is declared completely null or to determine the existence of a right or legal relationship, provided that the plaintiff has a lawful interest in having these accomplished. (24.06.2005; #1800)
2. A declaratory lawsuit may be lodged if the plaintiff may lodge a lawsuit based on Articles 22 – 24 of this Code.

### **Article 25<sup>1</sup>. Contractual disputes**

1. Contractual disputes shall be decided through addressing common courts.
2. Disputes related to conclusion, performance or termination of an administrative agreement shall be adjudicated by common courts under rules of administrative proceedings. Disputes related to

conclusion, performance or termination of a private law contract by an administrative body shall be adjudicated under rules of civil proceedings.

3. A dispute arising out of a private law contract entered into by an administrative body may, by agreement of the parties, be referred to arbitration. (26.06.2009; #1346; to become effective since 1 January 2010)

#### **Article 26. Lodging a lawsuit with a court according to jurisdiction**

1. A lawsuit must be lodged with a court that has jurisdiction to examine and decide on the administrative case.
2. If a lawsuit is lodged with a court that does not have jurisdiction over the case, the recipient court shall forward the case to the court that has jurisdiction and inform the plaintiff thereabout.
3. A dispute between courts over jurisdiction shall be decided by the cassation court through its motivated order. (24.06.2005; #1800)

#### **Article 26<sup>1</sup>. Prohibition of making a decision *in absentia***

1. Provisions of Chapter XXVI of the Civil Procedure Code do not apply to administrative proceedings.
2. Deleted (29.12.2004; #932)
3. If a party does not appear for an invalid cause, a court (judge) is authorized to make a decision in the absence of that party based on the materials available in the case file and by taking into account the provisions of Articles 4 and 19 of this Code. If neither party appears before a first instance court for an invalid cause, a court is authorized to leave the lawsuit without review. (28.12.2007; #5670)

#### **Article 26<sup>2</sup>. Preparatory hearing (28.12.2007; #5670)**

1. At the stage of accepting a lawsuit for review, a court shall decide on admissibility of the lawsuit taking into account the requirements set forth in Articles 22 – 25 of this Code. If in doubt about deciding on admissibility or if the judge deems that lawsuit should be declared inadmissible, the court shall appoint a preparatory hearing within 2 weeks after having received the lawsuit. Failure by the parties to appear will not bar the examination of the matter.
2. A court will terminate the proceedings by its order if the case does not meet the admissibility requirements set forth in Articles 22 – 25 of this Code. A first instance court must terminate proceedings in the case at any stage of the proceedings, if the same grounds exist.

3. In the events described in this Article, court orders refusing to accept a lawsuit for review or terminating the proceedings in the case due to declaring a lawsuit inadmissible may be challenged by lodging a private complaint.
4. If an appeals court upholds a private complaint and cancels the court order, it shall return the case to a court having jurisdiction for its examination.
5. If an appeals court reveals grounds mandating termination of the proceedings in the case due to inadmissibility, it shall issue an order terminating the proceedings in the case. Such an order may be challenged by lodging a private complaint.
6. If the cassation court reveals grounds mandating termination of the proceedings in the case due to inadmissibility, it court is authorized to issue an order terminating the proceedings in the case. Such an order may not be challenged.

#### **Article 27. Summary proceedings**

A court is authorized, at the parties' request made in writing, to review and adjudicate an administrative case without the parties' attendance.

**Article 27<sup>1</sup>. Rules of reviewing issues arising under the Imprisonment Code** (5.06.2012; #6392; to become effective on the 15<sup>th</sup> day following its publication)

In the events described in Articles 42(5), 43(6), 44(7), 86(1) and 90 of the Imprisonment Code, a court, based on a party's motion, may decide that the same party may participate in the court hearing distantly, using appropriate technical means.

#### **Article 28. Expedited administrative proceedings**

1. Based on a party's request, a court (judge) may decide to conduct administrative proceedings in an expedited manner.
2. In expedited proceedings, a court is authorized:
  - (a) to shorten the term in which the defendant may provide its reply (counterclaim) or counter-lawsuit;
  - (b) not to allow a third person a term for providing its opinion about the lawsuit;
  - (c) not to allow the parties to provide their opinions about appointing an expert;
  - (d) to shorten the term in which the parties may provide their opinions about appointing an expert.

### **Article 28<sup>1</sup>. An action a judge may undertake to expedite the proceedings**

A court may not go beyond the scope of the demand indicated in the lawsuit but it is not bound by the wording of the demand. To expedite the proceedings, a judge is authorized to assist a party in rephrasing its demand.

### **Article 29. Suspension of the validity of a challenged individual administrative legal act**

1. Receipt of a lawsuit by a court shall suspend the validity of the challenged individual administrative legal act.
2. Application of an individual administrative legal act will not be suspended if
  - (a) it is related to payment of State or local taxes, fees or other payables;
  - (b) the postponement of enforcement will cause significant financial damages or create a significant threat to public order or safety;
  - (c) it has been issued during a state of emergency or a state of war announced on the basis of a relevant law;
  - (d) an administrative body has made a motivated decision in writing to enforce the act, if there is a need for immediate enforcement;
  - (e) the individual administrative legal act has already been enforced or it is an empowering act the suspension of which would cause significant damage to other person's lawful right or interest;
  - (f) the law prescribes so.
3. Upon request of a party, a court may suspend the application of an individual legal act in part or in full in the event described in the second paragraph of this Article, if there is a substantiated doubt about legality of the individual administrative legal act or if its immediate enforcement would cause a substantial damage to a party or render it impossible to protect its legal right or interest. A court is authorized to determine the term of suspension of an individual administrative legal act or a part thereof.
4. Upon request of a party, a court may cancel the suspension of an individual administrative legal act or a part thereof in the events described in the first paragraph of this Article, if there is a need for immediate enforcement of the act or a part thereof, which is linked with a significant (substantial) damage or limits a party's lawful right or interest.
5. A party is authorized to lodge a motion for suspending an individual administrative legal act even before lodging a lawsuit.
6. A court shall decide in three days and send its decision to the parties within a day.

7. If a suspended individual administrative legal act has been enforced, a court may cancel a decision made in relation to the enforcement of an individual administrative legal act.
8. Where there are newly discovered circumstances, a court is authorized, based on a motion of a party, to amend or cancel a court order suspending the application of an individual administrative legal act.
9. The court order may be challenged by lodging a private complaint. (24.06.2005; #1800)

**Article 30. A court order suspending the validity of an individual administrative legal act**

A court order suspending the application of an individual administrative legal act will become invalidated:

- (a) when a court decision on this matter becomes final;
- (b) if the contentious proceedings end otherwise. (24.06.2005; #1800)

**Article 30<sup>1</sup>. A court order suspending the validity of a normative administrative legal act**

1. Unless the law prescribes otherwise, in time of lodging a lawsuit, a court may, based on a party's motion, suspend the validity of a normative administrative legal act, if there is a substantiated doubt about the legality of that act or if its immediate enforcement would cause substantial damage to or render it impossible to protect a person's lawful right and interest.
2. Where there are newly discovered circumstances, a court is authorized, based on a motion of a party, to amend or cancel a court order suspending the validity of a normative administrative legal act.
3. The court order may be challenged by lodging a private complaint. (24.06.2005; #1800)

**Article 31. An interim court order to issue an individual administrative legal act or to perform an action**

1. Before a lawsuit is lodged, a court may, acting upon an application addressed to the court, issue an interim order about the subject matter of the dispute, if it is likely that alteration of the status quo would hinder the applicant from exercising its right or render the exercise of this right substantially difficult for the applicant. A court may issue an interim order also for the purpose of prior regulation of a disputed legal relationship if such regulation is necessary, mostly in case of long-term legal relationships, to avoid significant damages, to deal with the existing threat or for other reasons.

2. It is the authority the court in charge to issue interim orders. A court in charge shall mean a first instance court or, if a dispute is being dealt with before an appeals instance, an appeals court.  
(24.06.2005; #1800)

**Article 32. A court decision about a lawsuit for declaring an administrative legal act void or invalidated**

1. If an administrative legal act or any part thereof contradicts the law causing direct and immediate (individual) damage to a plaintiff's lawful right or interest or unlawfully limiting its right, a court will, in relation to a lawsuit referred to in Article 22 of this Code, make a decision declaring the administrative legal act void.
2. If an individual administrative legal act had been enforced before a court decision was made, a court shall indicate in its decision, upon a party's motion, the rules of cancelling the enforcement.
3. If an individual administrative legal act had been declared void before a court decision was made, a court shall be authorized, where a party's lawful interest exists and upon the party's request, declare that individual administrative legal act void.
4. If a court deems that an individual administrative legal act has been issued without examining and evaluating circumstances having substantial importance for the case, the court shall be authorized to declare the act void without deciding on the subject matter of the dispute and oblige the administrative body to issue a new act after having examined and evaluated such circumstances. A court will make such a decision if a party has an urgent lawful interest in having the act declared void. (24.06.2005; #1800)
5. A court decision declaring a normative administrative legal act void shall have a binding force. If declaring a normative administrative legal act void will create a significant threat for State or public safety or result in significant increase in expenses for the State or a self-governance unit, a court is authorized to declare the normative administrative legal act invalidated instead of declaring it void. (24.09.2009; #1692)
6. The resolution part of a court decision must be published in the same way as was the normative act published. The administrative body that has issued the impugned normative act shall bear the publication costs. (28.12.2007; #5670)

**Article 33. A court decision about a lawsuit for having an administrative legal act issued**

1. If a refusal to issue an administrative legal act contradicts the law or if the term established for issuing such an act has been violated, provided that these are causing direct and immediate

(individual) damage to the plaintiff's lawful right or interest, a court will, in relation to a lawsuit referred to in Article 23 of this Code, make a decision obliging the administrative body to issue the administrative legal act. Upon a party's request, a court will determine a term in which the act must be issued.

2. A court is authorized to regulate the disputed matter by its own decision if the mere issuance of an individual administrative legal act would suffice to resolve the issue and there is no need for additional examination of the case circumstances, provided that the issue in question is not a matter falling within a discretionary power of the administrative body. Rules of challenging individual administrative legal acts established by this Code will not apply to such a decision of a court.  
(24.06.2005; #1800)

### **Article 33<sup>1</sup>. A court decision about a lawsuit for having an action implemented**

If any action implemented by an administrative body or an administrative body's refusal to implement an action is unlawful and such an action / refusal to implement an action causes direct and immediate (individual) damage to the plaintiff's lawful right or interest, a court will, in relation to a lawsuit referred to in Article 24 of this Code, make a decision obliging the administrative to implement the action or to refrain from implementing the action. (24.06.2005; #1800)

## **Chapter IX**

### **Appeal and Cassation; Renewal of proceedings (4.05.2010; #3046)**

### **Article 34. Admissibility of appeal and cassation lawsuits**

1. Appeal and cassation lawsuits are admissible in administrative proceedings irrespective of the value of the lawsuit. Requirements under Articles 365 and 391(2) of the Civil Procedure Code shall not apply.
- 1<sup>1</sup>. A judge of an Administrative Cases Chamber of an appeals court, acting as a sole judge, may decide on appeal complaints concerning: (4.12.2009; #2262; to become effective immediately upon entry into force of the Organic Law on Common Courts)
  - (a) a decision made in a case referred to in Article 6 of this Code;
  - (b) an individual administrative legal act issued about the release of public information;
  - (c) a dispute related to records of the Public Register;
  - (d) a dispute related to privatization of a residential apartment;
  - (e) a dispute about an administrative agreement on the lease of property;

- (f) a construction-related dispute;
  - (g) a private complaint;
  - (h) the event envisaged in Article 21<sup>23</sup>(8) of this Code;
  - (i) a dispute about the payment of monetary compensation to an individual recognized as a victim of political repression and to his/her first category heirs; (5.05.2011; #4646)
  - (j) cases related to sending a juvenile to a boarding school. (28.12.2009; #5666; to become effective on the 15<sup>th</sup> day following its publication)
2. Parties and third persons involved in the proceedings under Article 16(2) of this Code may challenge the decisions of an appeals court within the terms established by law in the cassation court.
3. The Supreme Court of Georgia will accept a cassation lawsuit if
- (a) the case is important for the development of law and setting a uniform court practice;
  - (b) the decision of an appeals court differs from the previously existing practice of the Supreme Court in similar cases;
  - (c) an appeals court has dealt with the case in significant violation of procedural rules and it is likely that these violations could affect the outcome of the case. (28.12.2007; #5670)
- 3<sup>1</sup>. The term of examining the admissibility under paragraph 3 of this Article shall not exceed three months. (28.12.2007; #5670)
4. The term of accepting a cassation complaint for review and making decision about the complaint in administrative proceedings shall be 6 months. (28.12.2007; #5670)

**Article 34<sup>1</sup>. Review of a case by the cassation court** (28.12.2007; #5670)

1. In the course of dealing with the case by the cassation court, parties may provide their opinions only in relation to circumstances on which basis the cassation court declared the complaint admissible.
2. Third persons referred to Article 16(2) of this Code may be involved in proceedings before the cassation court at their own consent, if they are not disputing the facts established by an appeals court and agree to provide their opinions only in relation to issues of law.

**Article 34<sup>2</sup>. Prohibition of renewing proceedings due to newly discovered circumstances**  
(4.05.2010; #3046)

The event described in Article 423(1)(g) of the Civil Procedure Code shall not apply in administrative proceedings as a ground for renewing the proceedings in the case.

## **Chapter IX. Transitory provisions** (24.06.2005; #1800)

### **Article 35.**

1. Before this Law enters into force, common courts shall apply rules of administrative proceedings in examining and deciding on disputes already lodged with them in relation to conclusion, performance and termination of administrative transactions.
2. Regional Courts and high courts of the autonomous republics shall perform the powers of appeals courts referred to in this Law until 1 November 2005.
3. Cases accepted for review by regional courts and high courts of autonomous republics before 15 July 2005 shall be forwarded to district (town) courts if they fall within the jurisdiction of district (town) courts.
4. Article 34(3) shall not apply to examination of cassation lawsuits registered before 1 November 2005. (25.11.2005; #2133)
5. A judge of an Administrative Cases Chamber of an appeals court, acting as a sole judge, may decide on appeals complaints lodged before 1 January 2008 concerning:
  - (a) a decision made in a case referred to in Article 6 of this Code;
  - (b) an individual administrative legal act issued about the release of public information;
  - (c) a dispute related to records of the Public Register;
  - (d) a dispute related to privatization of a residential apartment;
  - (e) a dispute about an administrative agreement on the lease of property;
  - (f) a dispute arising out of construction relations;
  - (g) a private complaint;
  - (h) the event envisaged in Article 21<sup>23</sup>(8) of this Code;
6. Following the entry into force of this Law, appeal proceedings commenced in cases referred to in paragraph 5 of this Article shall be continued by a judge of the Administrative Cases Chamber of an appeals (regional) court, acting as a sole judge, who has been assigned to an Administrative Cases Chamber of an appeals court. (25.11.2005; #2133)

### **Article 35<sup>1</sup>. Challenging a decision made *in absentia*** (29.12.2006; #4214)

If under Chapter VII<sup>2</sup> of this Code, a court has made a decision in the absence of a party, the party has the right to challenge the decision made *in absentia* in an appeal (cassation) instance court. This provision shall apply to all of the court decisions made after the entry into force of Chapter VII<sup>2</sup> of this Code.

**Chapter X** (29.12.2006; #4214)

**Article 36. Entry into force of the Code**

This Code shall enter into force on 1 January 2000.

President of Georgia

Eduard Shevardnadze

Tbilisi

23 July 1999

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