

1. Please indicate *time limits* for public authorities holding environmental information to respond to requests for environmental information. Is there a requirement for the issuance of a *refusal in writing and stating reasons* for the decision? How is the applicant *informed* about the possibilities to appeal the decision?

According to the Article 40 of the General Administrative Code of Georgia a public institution is obliged to issue public information, including public information requested electronically, immediately or not later than 10 days. Public institution is obliged to notify the applicant of it upon request. According to the article 41 public institution must immediately notify the applicant of the refusal to issue public information. If a public institution refuses to issue public information, it is obliged, within three days from making the decision, to explain to the applicant in writing his/her rights and appeal procedure, as well as to specify the structural subdivision or the public institution with whom consultations were held when making a decision to refuse to issue the information.

2. What are the *time limits to appeal* a decision on access to environmental information? What are the most frequently used grounds for appeal? Are there any issues concerning *who has standing* in such cases? To *what body and in which form* is the appeal made; recourse for review within the public authority or to the higher authority; Information Commissioner, Ombudsman or any other independent and impartial body; or directly to court of law? If appeal to the review body other than a court of law is available in any form, does that request suspend the time limits to appeal to the court? Is there a requirement of *exhaustion* of administrative review procedures prior to bringing the case to court?

According to Article 180 of the General Administrative Code of Georgia an administrative complaint must be filed within one month after publication or becoming officially familiar with the administrative act, unless otherwise provided for by law. According to Article 2 of the Administrative Procedure Code of Georgia, a court will not admit the claim brought against an administrative body, provided that the claimant has failed to use the possibility to lodge an administrative complaint in accordance with the procedure laid down in the General Administrative Code of Georgia, except as provided for by law.

3. If appeal is made to an independent body mentioned above, how is the independence and impartiality of that body ensured?

The decision of the public institution regarding the issuance of public information may be appealed to the superior administrative body. In case of refusal by the superior body, it may be appealed to a court. Independence of the judiciary is guaranteed by the Constitution and by the organic law on Common Courts. Meanwhile, according to the Article 2 para.1 of the Law on Legal Entities under Public Law, a legal entity under public law is a separate organisation from legislative and state government bodies, established under an appropriate law, an ordinance of the Government of Georgia or an administrative act of a state government body based on law, which independently carries out political, state, social, educational, cultural and other public activities under state control; it is also a separate organisation from state government bodies, established under a normative act of a supreme executive body of an autonomous republic, which independently carries out social, educational, cultural and other public activities under state control.

4. What *costs (fees, charges)* are connected to review before the court of law or other review bodies in these cases?

Amount of state fees are determined by the Article 39, para. 1 “h” of the Civil Procedure Code of Georgia, according to which for a non-property dispute state fee is 100 GEL, and for appeal and a cassation claims 150 GEL and 300 GEL respectively.

5. **What is the average time needed for the court of law or another independent and impartial body to decide an information case, i.e. from the introduction of the appeal to the notification of the decision? If the national rules of appeal require administrative reconsideration before the appeal is submitted to the court of law or another review body, that time should also be also separately specified.**

According to the Article 1 para. 2 of the Administrative Procedure Code of Georgia, the provisions of the Civil Procedure Code of Georgia are applied to administrative legal proceedings and according to Article 59, para. 3 of Civil Procedure Code of Georgia, court hears a case within two months after receiving the application, by decision of a trial court of a particularly complex case this time limit may be extended by not more than five months. According to the Article 183 para. 1 an authorized administrative body is obliged to review the administrative complaint and make a respective decision within one month unless otherwise provided for by the law or by a subordinate act issued under the law.

6. **Are decisions of courts and other review bodies in information cases in writing, publicly available, binding and final? If the appeal is successful, how is the independent body's/court's *decision enforced*; by ordering the public authority to disclose the information; by disclosing the information directly; by suing the public authority if they persist in refusing to disclose the information or by any other means?**

Articles 22-23-24 of the Administrative Procedure Code of Georgia consider legal proceedings of the claim regarding of which court makes a decision declaring an administrative act null or void/invalid in accordance with the articles 32-33-33¹ of the same Code. According to the Constitution and the acting legislation court decisions are compulsory. Further, Article 12 of the General Administrative Code of Georgia considers enforcement procedures of court decisions if they have been appealed to the court in accordance to the law.

7. **Can disciplinary, administrative or criminal *sanctions be exercised* against the public officials if disclosure of environmental information is refused unlawfully? Would it be possible for the applicant or other members of the public to be a party to such proceedings?**

According to the Law on Public Service disciplinary measures enter into force against the public officer for not performing his/her official duties.

8. **Do you have any experience of situations/cases where individuals or ENGOs asking for environmental information have been *penalized, persecuted or harassed* in any way for their involvement?**
9. **Do you have any experience of *misuse or abuse* of the right to environmental information and the consequences thereof?**

10. In your view, what are the *main barriers* in your legal system concerning access to justice for the members of the public in cases on the right to environmental information?

Acting legislation does not consider any artificial barriers regarding the access to justice.

11. Does your legal system provide with any *innovative approaches* concerning administrative and judicial review procedures in cases on the right to environmental information, for example concerning the requirement for the procedure to be expeditious, the use of alternative dispute resolutions (ADRs), costs, remedies, means for execution of review decisions on disclosure or use of e-justice initiatives?

There are no special procedures/approaches concerning environmental cases besides the administrative litigation procedure.

12. Can you please provide us with a short description of particularly important or innovative information cases, as well as cases which illustrate the main barriers concerning access to justice in these matters?

Brief information about the decision of the Administrative Chamber of the Supreme Court of Georgia:

Based on the purchase agreement made by the government of Tbilisi, Ministry of Economy and the Ltd “x” in 2012 the applicant requested public information in accordance with the article 37 and 40 of the General Administrative Code of Georgia and received a refusal. Amongst others, the applicant requested information whether the agreement considered the obligations of the purchaser regarding the health and security issues and if it considered, applicant requested indication of the relevant obligations. In particular, whether the obligations regarding the sewage flowing into the river Mtkvari have been fulfilled. The cassation court satisfied the complaint and with the new decision assigned the respondent party – the Government of Tbilisi to issue requested public information. The decision was based on the Article 24 para. 1 and Article 41 para. 1 of the Constitution and Article 28 of the General Administrative Code. The court found that the information requested by the applicant is an information regarding the state of water, which in itself falls within the category of environmental information and therefore is the type of information that by the legislation is prohibited to classify. The court also relied on Article 2 para 3 “a” of the Aarhus Convention and interpreted it within the scope of Article 37 of the Constitution, which determines the categories of information that are prohibited to be classified. Amongst them is environmental information – “Everyone shall have the right to complete, objective, and timely information about environmental conditions”. The cassation Court held that information about the environmental conditions is open information which should be available for everyone regardless of physical shape or condition